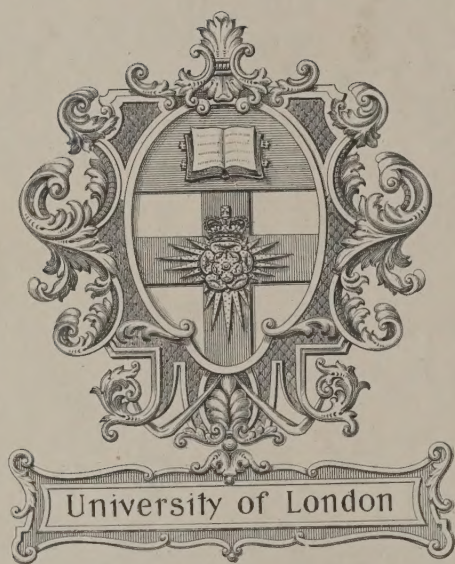






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WITH

THE UNITED STATES

RESPECTING

CENTRAL AMERICA.

Presented to both Houses of Parliament by Command of Her Majesty.
1856.

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Correspondence with the United States respecting Central America.

No. 1.

Mr. Crampton to Viscount Palmerston.—(Received October 3.)

My Lord,

Washington, September 17, 1849.

MR. CLAYTON having requested me to call upon him at the Department of State, said that he wished to converse with me frankly and confidentially upon the subject of the proposed passage across the isthmus, by way of Nicaragua and the River San Juan, with regard to which he had long felt a great deal of anxiety—an anxiety lately very much increased by intelligence he has received from Mr. Elijah Hise, who has arrived at Washington from Guatemala, where he has been for some years Chargé d’Affaires of the United States.

Mr. Hise has, it appears, upon his own responsibility, and without instructions either from the late or from the present Administration, signed, on the part of the United States, a Treaty with the State of Nicaragua, by which the latter grants to the United States an exclusive right of way across her territories, including therein the River San Juan, for the purpose of joining the two oceans by a canal across the isthmus. The Treaty contains a number of provisions, such as stipulations for the construction of forts and military works upon the banks of the San Juan for the protection of the proposed passage. These Mr. Clayton enumerated to me; but he read to me, at length, the Article which he regards as the most objectionable in the Treaty, by which it is stipulated that the United States guarantees to Nicaragua for ever the whole of her territory, and promises to become a party to every defensive war in which that State may hereafter be engaged for the protection of that territory.

To the whole of this Treaty, as well as to the “absurd stipulation” which he had just read, Mr. Clayton said that it was scarcely necessary to remark that he was entirely opposed. His views and wishes with respect to the construction of a Canal across the Isthmus by way of Nicaragua were, he observed, known to me, and had been, as I was aware, communicated by his direction to Her Majesty’s Government; these would, he trusted, have convinced your Lordship that the Government of the United States have no views of exclusive advantage to themselves in this matter. He felt most anxious that the signature of the present Treaty by Mr. Hise should not produce a contrary impression in any quarter; and with this view he proceeded to read to me a portion of the instructions which have been given to Mr. Squier, who has been lately sent as United States’ Chargé d’Affaires to Nicaragua. By these Mr. Squier is directed not only not to negotiate any Treaty with that Government on the subject of a passage across the isthmus, but not to give his support or countenance to any contract entered into by private citizens of the United States with Nicaragua,

on that subject, of an exclusive nature, or such as might bring the United States into collision with any other Power.

The signature of the present Treaty has, Mr. Clayton remarked, placed the Government of the United States in a most embarrassing situation. You know, he said, that the Government have no majority in the Senate; you know that the Treaty will be called for by Congress; the substance of it, indeed, has already found its way into the newspapers; you are aware of the opinion which, whether right or wrong, is generally entertained in this country of the claim of the Mosquito Chief to any part of the territory claimed by Nicaragua; and you can form an idea of the eagerness with which the party opposed to the Government will avail themselves of the opportunity of either forcing us into collision with Great Britain on this subject, or of making it appear that we have abandoned, through pusillanimity, great and splendid advantages fairly secured to the country by Treaty. It will require great caution on both sides, said Mr. Clayton, to prevent the two Governments being brought into collision on account of this intrinsically worthless country.

Mr. Clayton concluded by saying that he would immediately send for Mr. Abbot Laurence, who is now at Boston preparing for his departure for England on the 26th instant, and that he would put him into full possession of the views of the United States' Government with regard to this subject. He begged me in the meantime to communicate the substance of what he had said to me to your Lordship.

I have, &c.

(Signed) JOHN F. CRAMPTON.

No. 2.

Mr. Crampton to Viscount Palmerston.—(Received October 13.)

(Extract.)

Washington, October 1, 1849.

I HAD the honour of informing your Lordship in my despatch of the 17th ultimo, that it was Mr. Clayton's intention to send for Mr. Laurence, in order to put him, before his departure for England, fully into possession of the views of the United States' Government with regard to the project for making a Canal across the Isthmus by way of the Lakes of Nicaragua and the River St. John; the more especially that this question has been rendered one of great embarrassment to the United States' Government by the signature of a Treaty on the subject by Mr. Hise, the American Chargé d'Affaires at Guatemala, with the Nicaraguan Government, and by the conflicting claim of Mosquito, supported by the British Government.

Mr. Laurence was not, however, able to come to Washington before leaving this country, and Mr. Clayton is therefore about to address to him a detailed instruction upon this matter, for communication to Her Majesty's Government.

Mr. Clayton, nevertheless, yesterday took an opportunity of entering upon the subject with me, with greater earnestness and at greater length than on any previous occasion; and I am the more anxious to report accurately to your Lordship the substance of his remarks, from the circumstance that the President, who happened to come into Mr. Clayton's room upon other business, on being informed of the subject on which we were engaged, waived all ceremony, and joined in our conversation with great frankness, and every appearance of a wish to make proof of the most friendly feelings towards Her Majesty's Government, by evincing a disposition to deal with entire openness with regard to the affair in question.

The junction of the two oceans by a canal, Mr. Clayton observed, was an object so important to the whole of the commercial world, that it was matter for surprise that an attempt had not long since been made to effect it. The increase of population on the western coast of this continent had, however, now rendered it certain that such an attempt would ere long be made. The Government of the United States are strongly in favour of such an undertaking; but they are as earnestly opposed to its execution being made a subject for jealousy by an attempt on the part of any one nation to monopolize to itself either the credit due to such an enterprise, or the advantages to be derived from it when

effected. It should, in their view, be rather made a bond of peace and good understanding by being brought about by a combined effort, and for the general benefit of mankind.

That great applause in certain quarters, and a certain sort of popularity, might be gained by the Government of either of the countries by an attempt to effect this work upon a principle of exclusive advantage, Mr. Clayton observed, there could be no doubt. But the United States' Executive disclaimed any such wish, but desired, on the other hand, not to be driven to adopt any measure for obtaining such exclusive advantage. Such popularity or applause would, in their opinion, be dearly bought by the jealousies and misunderstandings between nations which would be the inevitable result; and this it was the study of the United States' Government to avert.

The two countries, Mr. Clayton continued, most deeply interested in this work are, there can be no doubt, Great Britain and the United States. Their interest in it, indeed, seemed to him to be identical. Their entire agreement with regard to it was therefore an object of paramount importance.

It was with this feeling, he said, that the United States' Government would entirely disapprove of the Treaty signed by Mr. Hise with the State of Nicaragua, unless they were driven to adopt it to counteract the exclusive claim of some other country. That Treaty both secured exclusive advantage to the United States with regard to the proposed Canal which they did not wish, under any circumstances, to possess, and threatened, besides, to bring them into collision with Her Majesty's Government upon the Mosquito question pending between them and the State of Nicaragua.

What the United States' Government would now propose, therefore, was this: that the United States should abandon the Treaty signed by Mr. Hise; and, instead of ratifying it, should propose, simultaneously with Her Majesty's Government, another Treaty to Nicaragua by which no exclusive advantage should be conferred on any party, and the great object of which should be to guarantee the safety of a company of capitalists, to whom a charter should be granted by Nicaragua on reasonable terms for the execution and maintenance of the work. This company Mr. Clayton would have formed upon no exclusive principle as regards the shareholders, while it should be regulated as regards the rate of toll to be levied, and on such other points as might appear necessary, by the Governments guaranteeing its safety and undisturbed possession. The Government of Nicaragua would of course have no power to levy any other dues than custom duties on articles imported for her own consumption; the transit from ocean to ocean being left free. The sole fact of the existence of such Treaties between Great Britain and Nicaragua, and between Nicaragua and the United States, would, in Mr. Clayton's opinion, be quite sufficient to insure the undisturbed execution of the work; but he would propose that every other Power which should conclude a similar Treaty with Nicaragua, and offer a similar guarantee, should be admitted on equal terms to all the advantages of the Canal. It would be by such an arrangement that the character which it ought to possess would be conferred on this great undertaking.

These considerations if fairly laid before Her Majesty's Government would, the United States' Government are persuaded, induce Her Majesty's Government to consent to make such an arrangement with regard to the Mosquito claim, as would prevent its being an obstacle to the design in question. The Mosquito claim, if disconnected with the question of a passage across the Isthmus, is not, the United States' Government apprehend, one to which any great importance can be attached by Her Majesty's Government; and they cannot perceive that if the object which they think it probable that Her Majesty's Government, in common with themselves, have in view of preventing an injurious monopoly being established by any one nation in the quarter in question, is obtained, there can be any real difficulty in arranging the question as far as the Mosquito nation is involved in it.

I here remarked to Mr. Clayton, that whatever might be the views of Her Majesty's Government with regard to the proposed passage across the Isthmus—and I was at present entirely unacquainted with them—the claims of the King of Mosquito to the territory in question, and to the protection of Her Majesty's Government, were of so clear and indisputable a nature, that I was not warranted in supposing for a moment that Her Majesty's Government would recede

from the position which they had assumed in regard to them. I was anxious, therefore, to learn in what manner Mr. Clayton would suggest that an arrangement could be effected which would meet this difficulty.

Mr. Clayton observed, "You affirm the Mosquito title; we deny it. There we are at issue; and if that controversy be not arranged amicably, the Canal will probably never be made for either of us." He thought it could be easily settled by a little mutual forbearance, but he would prefer to leave to your Lordship the suggestion of the best means of effecting an object so desirable. In the course of our conversation, however, some of the circumstances of the case were adverted to, which seemed to him to offer the means of arriving at a solution of the difficulty which would be satisfactory to all the parties concerned. The only part of the territory claimed for the Mosquito nation, he observed, which is of the least importance to Nicaragua, and that importance depends entirely upon its connection with the question of the proposed Canal, is that part embracing the River St. John, and the territory claimed by Nicaragua from the Machuca Rapids to the sea. Now the Mosquito nation, according to every account which the United States' Government have been able to obtain of them, do not amount altogether to more than 1,000 souls; and even this small number is stated to be on the decrease. The cession, therefore, of this portion of the territory claimed for them by England for a reasonable indemnity, to be arranged and paid by England herself if Nicaragua refused to pay it, and their settlement in some other part of the country beyond the limits claimed by Nicaragua, under the guarantee and protection of Her Majesty's Government, might, Mr. Clayton hoped, be easily effected without the smallest injury to the Mosquitos, or any real abandonment of their interests by the British Government. Nicaragua might, in perfect accordance with her claim under the Spanish title, which the United States hold to be valid, proceed, as the United States have often done in similar cases, to extinguish the Indian title by granting an annuity to the Indians; and as it is clear that the real object of Nicaragua in maintaining that claim is involved in considerations regarding the project for a Canal across the Isthmus, there can be little doubt that that point once satisfactorily settled she would cheerfully accede to such terms.

Mr. Clayton then recurred to the embarrassing situation in which the friends of this great enterprise would be placed should Her Majesty's Government continue to oppose the Mosquito claim to the arrangement now proposed. The existence of the Treaty signed by Mr. Hise, and the privileges conferred by it on it, by the United States, are, he said, no secrets in this country. The universal feeling would be for its adoption; and a reason for clamouring for its instant ratification would be, that this might defeat what would be represented and believed to be a plan on the part of Great Britain to secure for herself a monopoly of the most eligible passage between the two oceans. The Executive Government of the United States would be without excuse for withholding the Treaty from the consideration of the Senate; and it is impossible to doubt, under the influence of the public excitement which there is already an evident design to rouse with regard to this question, what would be the result. On the other hand, were the Administration enabled to submit to Congress an arrangement such as is now proposed, and in which Her Majesty's Government would be in friendly concurrence with the United States' Government for this great work, every pretext would be taken away from the most unreasonable, and every chance of future misunderstanding between the two Governments avoided. Mr. Clayton considered that this question could never be settled amicably unless both Great Britain and the United States withdrew all claim to the territory of Nicaragua and Costa Rica. If either of the two Governments held possession of the country on either side of the Canal, it would hold an inadmissible advantage over the other; in a word, said he, let us both abandon all claim to what is called Nicaragua and Costa Rica, and lend the countenance of both Governments to the construction of a Ship-Canal if it be found to be practicable; if you refuse this offer, we are driven in self-defence to adopt the Treaty.

In the whole of these observations General Taylor cordially concurred; the attempts, he remarked, which were making and would be made in many quarters to produce a misunderstanding or a collision between the two Governments on this matter were, in his opinion, only to be met by perfect frankness

and fair-dealing ; it was his earnest wish, therefore, that the matter should be laid in this spirit before your Lordship, and he expressed an anxious wish that the question might be promptly arranged equally to the honour and advantage of both countries.

No. 3.

Mr. Crampton to Viscount Palmerston.—(Received .)

(Extract.)

Washington, October 15, 1849.

MR. CLAYTON yesterday informed me that he had received intelligence from Mr. Squier, the United States' Minister lately sent to Nicaragua, that Mr. Squier had, in the early part of last month, concluded a Treaty with that State regarding the construction of an Interoceanic Canal across the territory.

This Treaty, Mr. Clayton remarked, although it contains some Articles of which he disapproves, is less objectionable than that signed by Mr. Hise with the Nicaraguan Government for the same purpose to which I alluded in my despatch to your Lordship of the 1st instant.

The Government of the United States will, however, he said, suspend their decision with regard to the present Treaty, as well as with regard to that signed by Mr. Hise, until they shall have an opportunity of learning the views of Her Majesty's Government with regard to the proposals and considerations upon the subject to which these Treaties relate, which I had the honour of conveying to your Lordship in my above-named despatch.

A copy of the Treaty, Mr. Clayton added, will be transmitted to Mr. Laurence, for communication to your Lordship, by the packet of the 24th instant, together with an instruction to that Minister to lay the "whole thought" of the United States' Government in regard to it before Her Majesty's Government.

I have now the honour of inclosing a newspaper which contains the copy of a fresh contract* which has been formed between an American Company and the Nicaraguan Government for the construction of the Canal in question, which Mr. Clayton informs me was drawn up under the supervision of Mr. Squier, and in accordance with the provisions of the Treaty which he was engaged in negotiating.

The general tenour of this contract is in accordance with the instructions given to Mr. Squier on the subject, more particularly Article XXXVI, which stipulates that vessels of all nations shall be permitted to pass through the proposed Canal, subject to no higher rates or charges than those imposed on vessels of the United States. Some of the stipulations, however, Mr. Clayton observed, were objectionable, particularly that of the preamble which seems to confine the directorship of the Company to American citizens; and that of Article IX, which requires that a majority of the shareholders shall be American citizens. The United States' Government, he said, wish to see nothing of an exclusive character in any part of the arrangement. Mr. Clayton conceives, however, that should the joint action of Her Majesty's Government with the Government of the United States in the matter be once secured, there can be little difficulty in remodelling the contract as to these points, or as to such others as may be agreed upon.

I take this opportunity of inclosing a newspaper containing a report of Mr. Squier's reception by the Nicaraguan Government, and of the speech which he delivered on that occasion.

With regard to the allusion made by Mr. Squier to Mr. Monroe's doctrine respecting the colonization of any part of the American continent by a European Power, Mr. Clayton remarked that the present Administration of the United States in no way adopted that principle, and that Mr. Squier was not instructed to make any allusion to it in his communications with the Nicaraguan Government.

No. 4.

Mr. Abbott Laurence to Viscount Palmerston.—(Received November 8.)

My dear Lord,

United States' Legation, November 8, 1849.

AS I told you in our conversation this morning, I have been instructed by the President to inquire whether the British Government intends to occupy or colonize Nicaragua, Costa Rica, the Mosquito Coast so called, or any part of Central America. I have also been instructed to inquire whether the British Government will unite with the United States in guaranteeing the neutrality of a ship-canal, railway, or other communication to be open to the world, and common to all nations. May I beg the favour of an answer to these inquiries, and to express the wish that I may receive it before 2 o'clock to-morrow, so as to send it out by this week's packet?

I am aware that Nicaragua is in dispute with Costa Rica on the one hand about her boundary, and with the Mosquitos on the other about their sovereignty. I have no purpose now to enter upon those questions; I only desire to know the views of Her Majesty's Government on the questions I have proposed. At the same time, I cannot but think that Great Britain and the United States can heal these breaches by kind offices; and that the Indians can be provided for in a manner satisfactory to Nicaragua and Great Britain, and far better for them than the equivocal position they now occupy.

I need not assure your Lordship that the United States have no ulterior purposes in view. They frankly disclaim all intention of obtaining territory in Central America; and I have no doubt would be willing to mutually agree with Great Britain neither to settle, annex, colonize, or fortify that country.

I have, &c.

(Signed) ABBOTT LAURENCE.

No. 5.

Viscount Palmerston to Mr. Crampton.

Sir,

Foreign Office, November 9, 1849.

I HAVE received your despatch of the 1st ultimo, reporting the substance of your conversation with the Secretary of State and the President of the United States, on the question of the rights of the Mosquito nation as connected with the project for making a communication between the Atlantic and Pacific Oceans by the River St. John and the Lakes of Nicaragua.

I have to state to you that, as it appears that Mr. Laurence is instructed to make some communication on this matter to Her Majesty's Government, I postpone giving you any instructions about it until that communication shall have been received. But in the meantime I have to inform you that I had some conversation on this subject with Mr. Rives, as he passed through London on his way to Paris.

What Mr. Rives said to me was much to the same effect as what the President and Mr. Clayton said to you. I said to Mr. Rives, in reply, that the British Government have no selfish or exclusive views in regard to a communication by canal or railway across the isthmus from sea to sea; that Her Majesty's Government wish that any undertaking of this sort which they may have the means of contributing to facilitate should be equally open to and available for all the nations of the world, and should be a highway of commerce for all men who may have occasion to use it; and I said that if the United States' Government had any arrangement to propose which would have the effect of placing this line of communication out of the reach of disturbance by any conflicts which from time to time may happen between nations who may find themselves unfortunately engaged in war, Her Majesty's Government would be glad to receive any such proposal, and would take it into their most attentive consideration; but I said that I entirely concurred with Mr. Rives, and with what I understood

him to represent as being the opinion of the United States' Government, that no one country ought to endeavour to monopolize any such line of communication to the exclusion and detriment of other nations.

I am, &c.
(Signed) PALMERSTON.

No. 6.

Viscount Palmerston to Mr. Crampton.

Sir,

Foreign Office, November 13, 1849.

I TRANSMIT herewith, for your information, a copy of a letter* which I have received from Mr. Laurence, Minister of the United States at this Court; together with copies of two letters† which I have addressed to him in reply, respecting the views and intentions of Her Majesty's Government in regard to Central America and Mosquito, and respecting the proposed communication between the Atlantic and Pacific Oceans.

I am, &c.
(Signed) PALMERSTON.

No. 7.

Viscount Palmerston to Mr. Abbott Laurence.

My dear Sir,

Foreign Office, November 13, 1849.

I HAVE received your letter of the 8th instant, written in accordance with what passed in our conversation in the morning of that day, and I hasten to reply to your inquiries.

With regard to the first part of your inquiry, I beg to say that Her Majesty's Government do not intend to occupy or colonize Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America.

With regard to Mosquito, however, a close political connection has existed between the Crown of Great Britain and the State and territory of Mosquito for a period of about two centuries, but the British Government does not claim dominion in Mosquito.

With regard to the second part of your inquiry, I beg to say that Her Majesty's Government will feel great pleasure in combining and cooperating with the Government of the United States for the purpose of assisting the operations of any company which may be formed with a view to establish a commercial communication, by canal or railway, between the Atlantic and Pacific, across the isthmus which divides the northern from the southern portion of the American continent; both by obtaining local security for the works while in progress, and when completed and in use, and by placing such communication, through the means of political arrangements, beyond the reach of molestation, disturbance, or obstruction by reason of international disputes which may at any time unfortunately arise; upon the condition, moreover, that such communication should at all times be open and accessible for the commerce of all nations upon equal terms for all.

Her Majesty's Government would feel that the union of two great Powers for the accomplishment of an object of such general utility, and tending so much to assist the diffusion of civilization, and to strengthen the foundations of international peace, would be as honourable to the Powers concerned in such an arrangement, as the result would be advantageous to the commercial interests of the world at large.

With regard to the port of Greytown, at the mouth of the River St. John, Her Majesty's Government would fully undertake to obtain the consent of Mosquito to such arrangements as would render that port entirely applicable, and on the principles above mentioned, to the purposes of such a sea-to-sea communication.

You advert in your letter to the differences which have arisen between the

* No. 4.

† No. 7 and 8.

Republics of Nicaragua and Costa Rica in regard to boundaries and to some other matters, and you suggest that the joint influence of Great Britain and of the United States should be employed to heal, by their good offices, the breaches which have interrupted the friendly relations of those two contiguous States. Her Majesty's Government would upon every account be glad to join with the United States in effecting such a reconciliation, and the more so, because the cordial cooperation of both of those Republics would be essential for the satisfactory completion of the contemplated undertaking.

I have only further to say, that Her Majesty's Government have received with great satisfaction your assurance that the United States have no ulterior purposes in view in regard to these matters; that they frankly disclaim all intention of obtaining territory in Central America; and that you have no doubt that they would be willing to enter into a mutual agreement with Great Britain neither to settle, annex, colonize, nor fortify that country. And I can with equal frankness assure you, that into such a mutual agreement Her Majesty's Government would be equally ready to enter.

I am, &c.
(Signed) PALMERSTON.

No. 8.

Viscount Palmerston to Mr. Abbott Laurence.

My dear Sir,

Foreign Office, November 13, 1849.

I WAS unwilling, in my answer to your letter of the 8th instant, to touch upon any other topic than those to which you had therein adverted; but I cannot refrain from adding a few lines in this separate letter to repeat that which in our conversation I said to you upon the subject of the Treaty which Mr. Squier is said to have concluded with the Government of Nicaragua.

If our information is correct, one object of that Treaty, if ratified, would be to engage the United States to endeavour to compel the British Government to deliver up Greytown to the Nicaraguan Government.

I am sure it is needless for me to point out to you that such an engagement would involve the United States in an unprovoked aggression towards Great Britain; and I think I am entitled to say, that there never was a time when the British Government had less reason to expect so hostile a proceeding on the part of the United States, whether we look, on the one hand, to the friendly policy of Great Britain towards the United States, and the great measures which the Parliament of Great Britain has of late passed for opening the markets of this country to the produce, and the ports of this country to the ships, of the United States; or whether we look, on the other hand, to the friendly assurances which we have so repeatedly received from the United States' Government, and of which you yourself have so recently and so frankly been the official, and, to us, most satisfactory, organ.

I am, &c.
(Signed) PALMERSTON.

No. 9.

Viscount Palmerston to Mr. Abbott Laurence.

Sir,

Foreign Office, November 19, 1849.

WITH reference to our recent correspondence about a passage by railway or canal between the Atlantic and the Pacific Oceans, I have the honour to observe to you that the geographical features and the surface-conformation of the country which forms the isthmus between North and South America, seem as yet to be very imperfectly known; and the consequence is, that there are various and conflicting opinions as to which is the part of that long tract of country which affords the greatest natural facilities for the establishment of such a communication. But whenever such a communication may be established,

and whatever its kind may be, whether a canal or a railway, there can be no doubt that it will cost a considerable sum of money; and if the capitalists of Great Britain and of the United States are to be invited by the joint action of the two Governments to embark their money in such an undertaking, it would seem desirable that the best spot should be chosen for the execution of the undertaking.

Her Majesty's Government would therefore wish to know, whether the Government of the United States would agree with them in thinking that, before any private companies are encouraged to fix upon any particular point for their operations, it would be useful that the two Governments should combine for the purpose of effecting a joint examination of the isthmus from end to end, with a view to ascertain which are the several points where a sea-to-sea communication could be made, and which of those points seem best adapted for a canal and which for a railway.

Such an examination would probably not occupy any great length of time, because inland investigation could be required only at places where the map, and the configuration of the coast, would lead to the supposition—first, that a tolerably level passage might be found from sea to sea; and secondly, that sufficient harbour accommodation might be found or constructed on each side of the isthmus.

The examination might be carried on by surveying ships and parties working on each side of the isthmus at the same time, and their instructions might be so framed that they might, to a certain extent, cooperate or communicate with each other.

The surveying party on each sea would, in such a case, be a mixed one, consisting of British and of United States' surveyors, so that each Government would have two parties at work, the one in the Atlantic the other on the Pacific side of the isthmus.

I am, &c.
(Signed) PALMERSTON.

No. 10.

Mr. Crampton to Viscount Palmerston—(Received November 19.)

My Lord,

Washington, November 4, 1849.

I HAD the honour of forwarding to your Lordship with my despatch of the 15th ultimo, the copy of a contract* between an American Company and the Government of Nicaragua for the formation of an Interoceanic Canal by way of the River St. John and the Lakes of Nicaragua, which contract was drawn up under the supervision of Mr. Squier, in accordance with the provisions of the Treaty which he was engaged in negotiating with the Nicaraguan Government; and I stated that Mr. Clayton, although he approved of the general tenour of the contract, thought that some of the Articles were objectionable from being of an exclusive character, particularly those which require that all directors of the Company and a majority of the shareholders shall be American citizens.

Mr. Clayton now informs me that he has had a conference with the two principal directors of the Company in question; and that, as he anticipated, he finds that no objection will be raised on their part so to modify the provisions of the contract as to remove from it anything of an exclusive nature.

These gentlemen, Mr. Clayton remarked, far from wishing to adopt any regulations which might have the effect of deterring British capitalists from embarking in this great undertaking, are most anxious to secure their cooperation; for the American capitalists are sensible that without such cooperation there would be but small prospect of the ultimate success of the enterprise.

I have, &c.
(Signed) JOHN F. CRAMPTON.

* See Inclosure 4 in No. 11.

No. 11.

Mr. Abbott Laurence to Viscount Palmerston.—(Received November 24.)

My Lord,

United States' Legation, November 22, 1849.

WITH reference to your note of the 19th instant, inquiring "whether the Government of the United States would agree with them [Her Majesty's Government] in thinking that before any private companies are encouraged to fix on any particular point for their operations, it would be useful that the two Governments should combine for the purpose of effecting a joint examination of the isthmus from end to end with a view to ascertain which are the several points where a sea-to-sea communication could be made, and which of these two points seem best adapted for a canal, and which for a railway;" I would state in reply that I have no instructions on that point.

At the same time I would repeat what I have verbally brought to your Lordship's notice, that the United States desire to see completed at an early day great commercial highways from ocean to ocean, protected by ample guarantees of neutrality from the selfishness of great and the factiousness of small nations, and open alike to all. And as a nation of practical men, they are sensible that such highways can only be constructed at great cost, and they cannot but wish that the capital should be expended on the plans best calculated for the end sought to be accomplished.

Your Lordship is doubtless aware, that from the general information possessed on this subject, the sentiment of the world has pointed more particularly to two routes in the long tract of country connecting Mexico with South America, as the best suited for such highways; the one at the very neck of the Isthmus, substantially following the course of the Chagres, and touching the Pacific at or near Panamá; the other by the St. Juan River and Nicaragua Lake, and reaching the western coast either by way of Lake Leon, or at some more southern point.

It may not be known to you that the right to construct such highway across the first of these routes has been granted to a company formed originally in the United States, but since completed by the subscription of a large amount of British capital; that they have surveyed and located a railway from ocean to ocean; that they have actually closed many contracts for its construction, and (I have heard) among others that for the iron; and that the United States have guaranteed the neutrality of their road, and desire England and the other great nations of the globe to join in the guarantee. This company is composed of men, many of them known to me, whose integrity, mind, experience, and wealth guarantee the successful completion of the work. Setting aside the consideration that the location of the road is already substantially decided, it must, I think, strike your Lordship, as it does me, that intelligent men, investing their own capital, will make a better, quicker, and cheaper survey than Government agents.

As to the other route, which would seem to be the better of the two for a canal, and to possess for the commerce of the east greater advantages from its more northern position and more western outlet on the Pacific, you will perceive by the inclosures that the right to construct this has been granted to a private Company by the Government of Nicaragua. The disputes between the small Republics of the Isthmus on the one hand, and the conflicting claims of Nicaragua and Mosquito on the other, interpose obstacles in the way of completing this great work.

In a former interview I endeavoured to acquaint your Lordship with the firmly entertained views of the United States on these points, and I refrain from presenting them in this connection, both because I do not wish to embarrass the question by discussion if it can be avoided, and because I am led to believe, from the desire manifested by Her Majesty's Government to aid in the construction of free mediums of communication with no exclusive privileges, and from the frankness with which they have disclaimed any intention of establishing either military or commercial posts on that coast, that some amicable means may be found for removing the obstacles in the way of what both nations profess to desire. In that event it seems to me that a private company of

responsible men, formed under the protection of England, the United States, and such other nations as choose to join in the guarantee of neutrality, on the same basis as the railway company (which I am assured would be the case), would be the best agent as well for the preliminary survey as the construction of the work.

There can be no doubt, I think, that the best interests of mankind will be subserved if the combined enterprise and wealth of the world at large build this as well as the other work, unassisted by Government aid farther than in the guarantee of its safety and neutrality.

I hope at a very early day after your Lordship's return to town, to have a full and free conversation on this subject. Meanwhile I inclose for your consideration various copies which I have been instructed to furnish you with, and have, &c.

(Signed)

ABBOTT LAURENCE.

Inclosure 1 in No. 11.

Article XXXV in a Treaty between the United States of America and the Republic of New Granada. Signed at Bogotá, December 12, 1846.

1. FOR the better understanding of the preceding Articles it is, and has been stipulated between the High Contracting Parties, that the citizens, vessels, and merchandize of the United States shall enjoy in the ports of New Granada, including those of the part of the Granadian territory generally denominated the Isthmus of Panamá, from its southernmost extremity until the boundary of Costa Rica, all the exemptions, privileges, and immunities concerning commerce and navigation, which are now or may hereafter be enjoyed by Granadian citizens, their vessels and merchandize; and that this equality of favours shall be made to extend to the passengers, correspondence, and merchandize of the United States, in their transit across the said territory, from one sea to the other. The Government of New Granada guarantees to the Government of the United States, that the right of way or transit across the Isthmus of Panamá upon any modes of communication that now exist, or that may be hereafter constructed, shall be open and free to the Government and citizens of the United States, and for the transportation of any articles of produce, manufactures, or merchandize, of lawful commerce, belonging to the citizens of the United States; that no other tolls or charges shall be levied or collected upon the citizens of the United States, or their said merchandize thus passing over any road or canal that may be made by the Government of New Granada, or by the authority of the same, than is, under like circumstances, levied upon

1. PARA mejor inteligencia de los Artículos precedentes, han estipulado i estipulan las Altas Partes Contratantes: que los ciudadanos, buques, i mercancías de los Estados Unidos disfrutarán en los puertos de la Nueva Granada, incluso los de la parte del territorio Granadino jeneralmente denominado Istmo de Panama, desde su araque en el extremo del sud hasta la frontera de Costa Rica, todas las franquicias, privilegios, e inmunidades, en lo relativo á comercio i navegacion, de que ahora gozen i en lo sucesivo gozaren los ciudadanos Granadinos, sus buques e mercancías; i que esta igualdad de favores se hará estensiva á los pasajeros, correspondencia i mercancías de los Estados Unidos que transiten al traves de dicho territorio de un mar á otro. El Gobierno de la Nueva Granada garantiza al Gobierno de los Estados Unidos que el derecho de via ó transito al traves del Istmo de Panamá por cualesquiera medios de comunicacion que ahora existan ó en lo sucesivo puedan abrirse, estará franco i espedito para los ciudadanos i el Gobierno de los Estados Unidos, i para el trasporte de cualesquiera artículos de productos, manufacturas, ó mercancías de licito comercio, pertenecientes á ciudadanos de los Estados Unidos; que no se impondrán ni cobraran á los ciudadanos de los Estados Unidos, ni á sus mercancías de licito comercio, otras cargas ó peajes, á su paso por cualquier camino ó canal que pueda hacerse por el Gobierno de la Nueva Granada, ó con su autoridad, sino los que en semejantes circunstancias se impongan ó cobren á los ciu-

and collected from the Granadian citizens; that any lawful produce, manufactures, or merchandize belonging to citizens of the United States thus passing from one sea to the other, in either direction, for the purpose of exportation to any other foreign country, shall not be liable to any import duties whatever; or having paid such duties, they shall be entitled to drawback upon their exportation; nor shall the citizens of the United States be liable to any duties, tolls, or charges of any kind to which native citizens are not subjected for thus passing the said isthmus. And in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for the said advantages, and for the favours they have acquired by Articles IV, V, and VI of this Treaty, the United States guarantee positively and efficaciously to New Granada, by the present stipulation, the perfect neutrality of the beforementioned isthmus, with the view that the free transit from the one to the other sea may not be interrupted or embarrassed in any future time while this Treaty exists; and, in consequence the United States also guarantee, in the same manner, the rights of sovereignty and property which New Granada has and possesses over the said territory.

dadanos Granadinos; que cualesquiera de estos productos, manufacturas ó mercancías pertenecientes á ciudadanos de los Estados Unidos, que pasen en cualquier direccion de un mar al otro, con el objeto de esportarse á cualquier otro pais extranjero, no estarán sujetas á derecho alguno de importacion; i si lo hubieren pagado, deberá reembolzarse al verificarse la esportacion; i que los ciudadanos de los Estados Unidos, al pasar asi por el dicho istmo, no estarán sujetos á otros derechos, peajes, ó impuestos, de cualquier clase, sino aquellos á que estuvieren sujetos los ciudadanos naturales. Para seguridad del goze tranquilo i constante de estas ventajas, i en especial compensacion de ellas i de los favores adquiridos segun los Articulos IV, V, i VI de este Tratado, los Estados Unidos garantizan positiva i eficazmente á la Nueva Granada, por la presente estipulacion, la perfecta neutralidad del ya mencionado istmo, con la mira de que en ningun tiempo, existiendo este Tratado, sea interrumpido ni embarazado el libre transito de uno á otro mar; i por consiguiente garantizan de la misma manera, los derechos de soberania i propiedad que la Nueva Granada tiene i posee sobre dicho territorio.

Inclosure 2 in No. 11.

Special Convention between the United States of America and the State of Nicaragua.

THE United States of America and the State of Nicaragua, having in view the grand design of opening and establishing, through the territories of the latter State, a passage and communication between the Carribean Sea and the Pacific Ocean, to facilitate the commerce between the two oceans, and to produce other great results; and designing to establish, regulate, and define the grants, rights, privileges, and immunities that shall appertain to each other, with reference to such great object, by means of a Treaty and special Convention. For the accomplishment of these desirable purposes, the President of the United States of America has conferred full powers on Elijah Hise, Chargé d'Affaires of the Government of the said States in Central America, and the State of Nicaragua hath likewise granted full powers to Señor Licenciado Don Buenaventura Selvas, Chargé d'Affaires of the Government of the said State of Nicaragua, near the United States' Legation in Central America, who, after having exchanged their said full powers in due and proper form, have agreed, and do agree upon the following Articles:

ART. I. It is solemnly agreed between the two High Contracting Parties, that the State of Nicaragua doth grant to and confer upon the United States of America, or to a company of the citizens thereof, the exclusive right and privilege to make, construct, and build, within the territories of the said State of Nicaragua, through, or by the use and means of any of the streams, rivers, bays, harbours, lakes, or lands, under the jurisdiction or within the limits of

said State, a canal or canals, a road or roads, either railways or turnpikes, or any other kind of roads, for the purpose of opening a convenient passage and communication (either by land alone or water alone, or by both land and water, and by means, if deemed proper, of locks and dams, or by any other mode of overcoming and removing the obstructions to the navigation of the said rivers, lakes, harbours, &c.) between the Carribean Sea and the Pacific Ocean, for the transit and passage of ships, steamers, sailing-vessels, boats, and vessels of all kinds, as well as vehicles of every sort used for the transportation and conveyance of persons and property, and of goods, wares, and merchandize of every description; and the United States, or the said Company which may be formed by virtue of such charter as shall be made, as herein provided, shall be permitted, for the construction of said works, to procure, take, and obtain within the territories of Nicaragua all kinds of materials, such as stone, timber, earth, and whatever else may be necessary and proper for the said purposes, free of any charge, so far as the said materials may be procured on the lands belonging to said State.

II. The State of Nicaragua cedes and grants to the United States, or to a chartered Company of the citizens thereof, as the case may be, absolutely, all the land that may be required for the location and construction of said canal or canals, road or roads, and which may be necessary for the erection of buildings and houses of every description, for the residence and accommodation of the engineers, superintendents, and labourers, and all others employed in the making and construction of said works, or in governing, managing, and controlling the same; and also for the erection of all such necessary buildings as may be requisite and proper for the purpose of storing away therein all the tools, machines, materials, and property of every description, which may be required for use in the construction, repairing, preservation, and management of said works; and should any portion of the lands or materials, or of the rivers, bays, ports, or their coasts or lakes and their shores, which may be necessary and proper to be applied for the location and construction of the said works and its appurtenances, belong to individuals, the State of Nicaragua agrees and undertakes to extinguish the titles thereto, and to procure the same upon a just principle of valuation for the aforesaid public works. The aforesaid cession and grant shall include a space of not less than 300 feet on each side of the lines of said works, and extending all along the whole length thereof, so that ample space be secured on the margins of said works for the convenient use thereof. The just value of such said lands and materials as may be private property at the date of this Treaty, will be paid for by said Company.

III. It is agreed that, if the Government of the United States shall decide not to undertake and construct the said works, then either the President or Congress thereof shall have the power and authority to frame, enact, and issue a Charter, or Act of Incorporation, containing such liberal provisions and such grants of rights and privileges (not inconsistent with the rights of the Contracting Parties herein secured) as may be necessary, convenient or proper to effect the great object in view; which Charter and Act of Incorporation shall provide as follows:—

1. That the Company which may be formed and organized under and by virtue of its provisions, shall be composed exclusively of the citizens of one or both of the Contracting Parties who may subscribe for and become the owners of the whole of the capital stock required for the said works. If, however, such citizens thus having the preference shall fail in due time to subscribe for and become the owners of the whole amount of the said capital stock, the residue thereof not taken by them may be taken, paid in, and owned by the Governments of both or either of the Contracting Parties, or by the Government or citizens of any other nation, kingdom, or country.

2. That said Company shall have the sole and exclusive right and privilege of constructing and owning such works as are herein named within the State of Nicaragua, provided the same are commenced and prosecuted within the time limited in this Convention.

3. It shall authorise the said Company to build and construct said canal or canals in such directions and of such width and depth as they shall in their discretion determine. And if the plan of roads is in part or in whole adopted,

the route, width, kind, and number thereof, shall be determined upon by said Company as they think proper.

4. It shall provide that said Company may make contracts, sue and be sued, as a corporation, with a given name and style, have a corporate seal, and engage in all such trade and business as may be proper and convenient, in promoting all the operations required for the attainments of the end in view.

5. It shall contain provisions adequate for the organisation of said Company, it shall provide for the appointment of the officers, agents, engineers, surveyors, superintendents, and other employes of said Company, and that said Company may make and adopt all its own by-laws and regulations, so that the same be not in conflict with the provisions of the Convention.

6. It shall provide that said Company may not only build and construct, but also alter, enlarge, repair, and reconstruct the said works as they may think proper, and that they may manage and govern the same, and manage and control the financial affairs of the corporation.

7. It shall provide the said Company shall make annual reports to the Executive Governments of the United States and the State of Nicaragua, setting forth their receipts and expenditures, and the condition, operations, and affairs of the said Company.

8. It shall provide that the management of the affairs of said Company shall be vested and lodged in nine managers; five of whom shall be appointed by the Company for a period of time and in a manner to be regulated by the said charter, and in like manner two of the said managers shall be appointed by the President of the United States, and two by the Executive Chief of the State of Nicaragua, and that said nine managers shall appoint their own President.

9. It shall provide that the Governments of either of the Contracting Parties may, through their Committees, freely examine and investigate the affairs, business, operations, and condition, financial and otherwise, of the said Company, and for such purpose such Committees may examine the books and papers of the Company and examine the officers thereof, and other witnesses on oath, and make reports thereon to their respective Governments.

10. It shall provide that said Company shall have the sole and exclusive right and privilege of conveying persons and passengers, and of conveying all steamers, ships, and vessels of all kinds by towage or otherwise, and of transporting in the vessels of others or of their own all property, goods, wares, and merchandise, over, through, and upon said navigable waters, canal or canals, road or roads which shall be improved, made, or constructed by them, at such rates, charges, duties, and tolls as the said Company may think proper to establish; except, however, that the said charter shall further provide that all the vessels of war, and all other public vessels of every description belonging to the Governments of the two Contracting Parties, as well also as all other vessels which may be engaged in the permanent or the temporary employment of the said Governments to transport their troops, munitions of war, their public property of all kinds, and to convey their public agents, Consuls, Ministers, and all their officers, civil and military, shall be permitted to have the free and unrestricted use of the said canal or canals, and navigable waters, and shall, if necessary and required, be conveyed through the same by the said Company free of all cost and charge. Said charter shall further provide also, that the public mails of the Contracting Parties shall be conveyed and transported along and over the said works by the said Company, in their own vessels or vehicles, free of cost or charge; and the Contracting Parties agree and stipulate with all solemnity, that the aforesaid rights and privileges shall be enjoyed by each other perpetually, and that said charter shall provide accordingly. Said charter shall also further provide that the citizens of the two Parties shall enjoy and possess the right and privilege with their vessels, goods, merchandise, and property, and persons, to pass and to convey through, upon, and over the said canals, roads, and navigable waters on terms at least as favourable as the subjects or citizens of any other nation or country.

11. Said charter shall provide that the said works shall be commenced by said Company within ten years after it shall be fully organised, under said charter, or otherwise forfeit their privileges. So likewise, if they shall, after

said works are begun, declare their intention to abandon them, and cease to prosecute the same for four entire successive years intentionally.

IV. The charter aforesaid may contain such other provisions, and grants of rights and privileges, not in violation of, or in conflict with, any of the preceding or subsequent Articles of this Treaty, as may be deemed necessary, convenient, or proper for the objects in view, by either the President or Congress of the United States, and the same when framed and issued shall be approved and legalised by the Government of the State of Nicaragua; and no privileges or emoluments shall be granted, in said charter, to either of the Contracting Parties which shall not likewise be held and enjoyed, to the same extent, by the other.

V. The Government of the United States shall have the right to erect such forts and fortifications, at the ends and along the lines of said works, and to arm and occupy the same in such manner, and with as many troops, as may be deemed necessary by the said Government for the protection and defence thereof, and also for the preservation of the peace and neutrality of the territories of Nicaragua, to whom pertains equal rights, as inherent to her sovereignty.

VI. The public armed vessels, letters of marque, and privateers, and the private merchant and trading vessels belonging either to the Governments, or the subjects and citizens of nations, kingdoms, or countries with which either of the Contracting Parties may be at war, shall not, during the continuance of such war, be suffered or allowed to come in the ports at the terminations of said canals, nor be allowed to pass on or through the same, on any account whatever; neither shall the vessels of neutral nations, whether public or private, be allowed to convey by means of the said canal, articles contraband of war to or for the enemies of either of the Contracting Parties, or to or for other nations or States who may be at war with each other. Nor shall the vessels of countries which are engaged in war with each other, owned or employed, and armed by them, to carry on such war, during its continuance be allowed to pass through the said canals. The public and private vessels of all nations, kingdoms, and countries which are in peace with both the Contracting Parties and with each other, shall be permitted to enter said ports and to pass or be conveyed through the said canals: but they shall be subject, however, to the payment of such duties, charges, and tolls as may be established by the proprietors of the said works.

VII. The State of Nicaragua may of course exercise her right of erecting and establishing, anywhere on the routes or margins, or at the points of termination of said works, custom-houses, and to collect duties, according to her own laws, upon the goods, wares, and merchandize imported for sale or consumption into her territories by means of said works, and the State of Nicaragua may adopt and enforce all needful rules and regulations to prevent smuggling, or the introduction of contraband goods in her territories. But it is expressly agreed that the State of Nicaragua shall not impose, enforce, or collect any taxes, charges, or duties of any kind or amount on the persons (for passports) or on property, or on goods, wares, or merchandize of any class or kind on their travel or transit over, or for passing through her territories by means of said canals, roads, &c., provided the said property, goods, wares, and merchandize shall be not sold or not introduced for sale or consumption into the said State, but be exported to other States or countries.

VIII. The ports at the points of termination of said works shall be free to both the Contracting Parties and their citizens respectively, and their public and private vessels of all kinds shall enter and remain therein, and depart therefrom, and not be subjected to the payment of any port charges, tonnage duties, or other impositions whatever.

IX. The persons employed in the location and construction of said works, the owners thereof, and all their agents and officers, and employes of every sort, shall be under the special protection of the Governments of both the Contracting Parties, and they shall not be subject to any kind of taxation on their persons or property, nor shall they be required to pay any contributions, or to perform any civil or military duty or service whatever for either of the two Governments during their employment about the said works; and all provisions, including wines and liquors, and all merchandize imported into Nicaragua for their clothing and subsistence, shall be free and exempt from all duties and taxes,

direct or indirect ; and also such articles, property, stores, tools, implements, and machines, &c., as may be required for surveys and explorations, and for locating and constructing said works, shall be imported into the State of Nicaragua, free from all taxes and duties whatever thereon ; and the vessels employed in the importation of the said subsistence, clothing, tools, implements, &c., shall also be free and exempt from all port charges and tonnage duties on all the ports, rivers, lakes, or harbours on the coasts or within the limits of the State of Nicaragua, and entire liberty is to be enjoyed by the said Company to make full and complete surveys and explorations of the ports, bays, seas, lakes, rivers, and territories of Nicaragua in order to the location of said works, and for the procurement of lands and materials necessary for the same, in which exploration and surveys Nicaragua, at her own expense, may participate if she thinks proper.

X. The State of Nicaragua grants and cedes to the United States, or to a Company to be chartered as herein provided, as the case may be, all the land within two leagues square belonging to the said State, and which may be unappropriated, at the date of this Treaty, at each point of the termination of said works, at the seas on each side, that is to say, three miles square on each side of both ends of said works, to serve for the sites of two free cities, which it is anticipated will hereafter be established at said points: the inhabitants of which free cities shall enjoy the following rights and immunities:—

1. They shall govern themselves by means of their own municipal Government, to be administered by officers, legislative, executive, and judicial, chosen and elected by themselves, according to their own regulations.

2. They shall have the right of trial by jury, in their own city courts.

3. They shall have the most perfect freedom of religious belief and of religious worship, public and private.

4. They shall not be required to pay any tax upon their real estate or other property, except such as may be imposed by the municipality, and collected for the city treasury, and to be used and applied for the benefit of the said cities.

5. They shall not be required to perform any military services except for the defence of the said cities in which they may reside.

6. The said cities will of course be under the qualified dominion and government of the State of Nicaragua ; not to be exercised in any manner, however, in violation of their rights and immunities as herein specified ; and said free cities shall be under the protection of the Governments of both the Contracting Parties.

XI. The State of Nicaragua agrees that the United States shall have, possess, and enjoy for ever the following rights and privileges ; that is to say, the right and privilege to pass, convey, transport, and send, through all or any part of the territories and dominions of the State of Nicaragua, on land or water, from ocean to ocean, by means of her ports, bays, rivers, lakes, and roads, troops, infantry or cavalry, all kinds of arms, artillery, and munitions of war of all kinds, her public property of every description, public officers, civil and military, consuls, ministers, despatch agents, her public mails and mail agents, and all other employés of the Government of the United States of America ; and the same shall all and each be permitted to pass, be sent, and be conveyed through said State in any manner, as aforesaid, in the public armed vessels of the United States, and in all such other vessels or vehicles, public or private, which may be in the temporary or permanent employment of the Government of the United States for any of the purposes aforesaid, or in any other way, free from all cost, and exempt from all taxes, duties, imposts, charges, or exactions of any kind whatever, either on the persons, property, vehicles, vessels aforesaid ; and all the aforesaid privileges, and the said free rights of way and of transit, shall be held, used, and enjoyed by the United States of America (but not by any other nation, State, or Government except the State of Nicaragua) without cost or charge, and freely, whether the same be made through the dominions and territories of Nicaragua as they now exist, or whether the said troops, munitions of war, public officers, agents, employés, mails, public property, vehicles, and vessels, &c., shall be sent, transported, or conveyed by means of improved navigable rivers, canals, or turnpikes, or railroads, or any other public improvements which may be hereafter made in the State of Nicaragua, either by the Government or citizens of the Contracting

Parties, or by the Governments, citizens, or people of any other nation, kingdom, or country. And the citizens of the United States shall have and enjoy all the rights and privileges of travel, passage, transit, and conveyance for themselves and their property and vessels of all kinds, through the territories and dominions of the State of Nicaragua as they now exist, or through such canals or roads, railways or turnpikes, or other improvements as may be hereafter made in said State upon terms and conditions, in every particular, as favourable as those enjoyed by the citizens of Nicaragua, or by the citizens of any other nation, kingdom, or country.

XII. In consideration of the premises as set forth in the foregoing eleven Articles, the United States of America doth solemnly agree and undertake to protect and defend the State of Nicaragua in the possession and exercise of the sovereignty and dominion of all the country, coasts, ports, lakes, rivers, and territories that may be rightfully under the jurisdiction and within the just and true limits and boundaries of the said State; and when the circumstances and condition of the country may require it, the United States shall employ their naval and military force to preserve the peace and maintain the neutrality of the said coasts, ports, lakes, rivers, and territories, and to hold and keep the same under the dominion and sovereignty of the Government of the State of Nicaragua, or of the Government of such State or political community of which Nicaragua may voluntary become a member, or with which, of her own accord, she may hereafter be identified: Provided, however, that the said sovereignty and dominion of the State of Nicaragua so guaranteed as above shall not be held, maintained, or exercised by said State in any such manner as to conflict or to be inconsistent with the rights and privileges herein secured to the United States and her citizens. And to prevent all misunderstanding, it is expressly stipulated that the United States are not bound, nor do they undertake to aid, assist, or support Nicaragua in offensive wars, or wars of aggression waged and carried on by said State with foreign Powers, or with the neighbouring States outside of her just limits and beyond the territories rightfully within her jurisdiction; but the Contracting Parties agree and undertake that, if necessary, the naval and military forces, and the entire means and resources of both the Contracting Parties, shall be employed to put down all wars and bloodshed arising therefrom, and to suppress all violations of the peace, and interruptions of the neutrality of the said State of Nicaragua; and for further explanation, it is understood that if the State of Nicaragua should become involved in a war with any foreign Power or neighbouring State within her own borders, to defend the territories rightfully belonging to her, or to recover such territories wrongfully wrested from her, the United States engage to aid and defend Nicaragua in carrying on such war within her rightful limits; provided, however, that such war is just, and provided, moreover, that if peace is prevailing in the State of Nicaragua, no wars or hostilities shall be first commenced in said State by either of the Contracting Parties without previous friendly consultations, and unless with the consent of both their Governments, given according to their laws and constitutions respectively.

XIII. The Contracting Parties in negotiating this Treaty have had in view the contract entered into between the State of Nicaragua, through their Commissioner Jose Trenedad Miño, and a certain Company styled "Compañía de Transito de Nicaragua," composed of certain persons named Willard Parker, Simeon H. Ackerman, Asher Kursheer, and David J. Brown, through the said David J. Brown as their agent; which contract was executed and signed by said Commissioner and Agent on March 14, 1849, and ratified by the legislative power of the State of Nicaragua on March 16, 1849, and approved by the Executive power of said State on the 17th March, 1849. Now in view of this contract, it is further agreed as follows:

1. If the above-named Company shall accede to this Treaty in all its parts, or if they shall have voluntarily abandoned their contract, or if they shall forfeit their right under said contract by failing to perform and execute the terms and conditions thereof in due time, then this Treaty shall remain and be valid in all its parts.

2. But if the said Company shall not accede to this Treaty in all its parts, and if they shall not abandon or forfeit their said contract, but if they shall execute the same and comply with its terms, and build the said works all in the time required, then in such case this Treaty in all its parts wherein the State

of Nicaragua grants to the United States or to a company to be chartered by the President or Congress thereof, the exclusive privilege to be the constructors and owners of said works shall be void and of no force or effect.

3. Nevertheless, in such case as is set forth in the second section next preceding, if said Company shall accede to the Vth, the VIth, and the XIth, and the VIIIth Articles of this Treaty, and shall consent and agree that the United States of America, and the citizens thereof, shall have and enjoy all the rights and privileges therein granted to them, and as defined also in the tenth section of the IIIrd Article, then, in such case, the above-named Vth, VIth, VIIIth, and XIth Articles of the Treaty, as also the XIIth Article thereof, shall be valid and obligatory between the contracting parties.

4. But if, in such case existing, as is set forth in the second section above, the said Company shall refuse to accede or agree to the said Vth, VIth, VIIIth, and XIth Articles hereof, as specified in the preceding third section, then this treaty shall be altogether void and of no force or effect whatever. But the contracting parties, anticipating that said Company, being satisfied that the great enterprise in view cannot succeed unless under the protection and patronage of the two Governments, will concur and cooperate with them in the promotion thereof, they are assured that this Treaty will meet their cordial approbation, and that it will be fully acceded to by them.

The present special Convention between the United States of America and the State of Nicaragua shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the direction of the State of Nicaragua with the consent of the Legislative Chambers thereof, and the ratifications shall be exchanged in the city of Washington, Santiago de Managua, or Leon, within the term of two years, counting from this date.

In faith whereof, we, the Plenipotentiaries of the United States of America and of the State of Nicaragua, have signed and sealed these presents in the city of Guatemala, on the twenty-first day of June, in the year of our Lord one thousand eight hundred and forty-nine, in the seventy-third year of the independence of the United States of America, and in the twenty-eighth year of the independence of the State of Nicaragua.

(L.S.)

ELIJAH HISE.

(L.S.)

BUENAVA. SELVAS.

Inclosure 3 in No. 11.

Copy of so much of the Treaty between the United States and Nicaragua as relates to the proposed Canal.

ART. XXXV. IT is and has been stipulated, by and between the High Contracting Parties :

1. That the citizens, vessels, and merchandize of the United States shall enjoy, in all the ports and harbours of Nicaragua upon both oceans, a total exemption from all port-charges, tonnage, or anchorage duties, or any other similar charges now existing, or which may hereafter be established, in manner the same as if said ports had been declared free ports. And it is further stipulated, that the right of way or transit across the territories of Nicaragua, by any route or upon any mode of communication at present existing, or which may hereafter be constructed, shall at all times be open and free to the Government and citizens of the United States, for all lawful purposes whatever ; and no tolls, duties, or charges of any kind shall be imposed upon the transit, in whole or part, by such modes of communication, of vessels of war or other property belonging to the Government of the United States, or on public mails sent under the authority of the same, or upon persons in its employ, nor upon citizens of the United States, nor upon vessels belonging to them ; and it is also stipulated, that all lawful produce, manufactures, merchandize, or other property belonging to citizens of the United States, passing from one ocean to the other, in either direction, for the purpose of exportation to foreign countries, shall not be subject to any import or export duties whatever ; or if any citizens of the United States having introduced such produce, manufactures, or merchandize into the State of Nicaragua for sale or exchange

shall within three years thereafter determine to export the same, they shall be entitled to drawback equal to four-fifths of the amount of duties paid upon their importation.

2. And inasmuch as a contract was entered into on the 27th day of August, 1849, between the Republic of Nicaragua and a company of citizens of the United States, styled the "American Atlantic and Pacific Ship-Canal Company," and in order to secure the construction and permanence of the great work thereby contemplated, both High Contracting Parties do severally and jointly agree to protect and defend the abovenamed company, in the full and perfect enjoyment of said work, from its inception to its completion, and after its completion, from any acts of invasion, forfeiture, or violence, from whatsoever quarter the same may proceed; and to give full effect to the stipulations here made, and to secure for the benefit of mankind the uninterrupted advantages of such communication from sea to sea, the United States distinctly recognizes the rights of sovereignty and property which the State of Nicaragua possesses in and over the line of said canal, and for the same reason guarantees positively and efficaciously the entire neutrality of the same, so long as it shall remain under the control of citizens of the United States, and so long as the United States shall enjoy the privileges secured to them in the preceding section of this article.

3. But if by any contingency the above-named "American Atlantic and Pacific Ship-Canal Company" shall fail to comply with the terms of their contract with the State of Nicaragua, all the rights and privileges which said contract confers shall accrue to any company of citizens of the United States which shall, within one year after the official declaration of failure, undertake to comply with its provisions, so far as the same may at that time be applicable; provided the company, thus assuming said contract, shall first present to the President and Secretary of State of the United States, satisfactory assurances of their intention and ability to comply with the same; of which satisfactory assurances the signature of the Secretary of State, and the seal of the Department, shall be complete evidence.

4. And it is also agreed on the part of the Republic of Nicaragua, that none of the rights, privileges, and immunities guaranteed, and by the preceding Articles, but especially by the 1st section of this Article, conceded to the United States and its citizens, shall accrue to any other nation, or to its citizens, except such nation shall first enter into the same Treaty Stipulations for the defence and protection of the proposed great Interoceanic Canal which have been entered into by the United States, in terms the same with those embraced in section 2 of this Article.

Inclosure 4 in No. 11.

Copy of a Contract between Nicaragua and the Canal Company.

THE Supreme Director of the State of Nicaragua, and the "American Atlantic and Pacific Ship Canal Company," composed of Cornelius Vanderbilt, Joseph L. White, Nathaniel H. Wolfe, and their associates, being always citizens of the United States, desiring to settle the terms of a contract for facilitating the transit across the Isthmus of Nicaragua from the Atlantic to the Pacific Oceans, by means of a ship canal or railroad, have appointed as Commissioners on the part of the Director of the State of Nicaragua, Messrs. Hermenegildo Zepeda and Gregorio Juarez, and on the part of the said company Mr. David L. White, with full powers to arrange and conclude a contract for the above-named purposes; which Commissioners having exchanged their respective powers, have agreed upon and concluded the following Articles:—

ART. I. The State of Nicaragua grants to the said Company the exclusive right and privilege of constructing a Ship-Canal across its territory, by a single route, and at its own expense, from the port of St. John's of Nicaragua, or any other more feasible point on the Atlantic, to the port of Realejo, Gulf of Amapala, or Fonseca, Tamorinda, St. John's of the South, or any other point on the Pacific Ocean that the engineers of the Company may decide upon, by means of the St. John's river, Lake Nicaragua, River Tipitapa, Lake of Leon,

or any other rivers, lakes, waters, and lands situated within its territory, with the object of connecting the two oceans, and to make use of, for its construction and navigation, said rivers, lakes, waters, and lands, both public and private. And the State also grants to the Company the exclusive right to the administration, management, and control of the said canal, according to the following Articles.

II. The dimensions of the canal shall be such as may be necessary for the passage of vessels of all sizes, and the point at which it shall terminate on the Pacific, in the event that the engineers of the Company shall decide upon two or more points as equally practicable, shall be that one most consistent with the mutual interests both of the State and the Company.

III. The Company binds itself to construct, at its own expense, in the harbours at the extremities of the route of said canal, custom-house buildings of the necessary capacity for the use of the State and Company.

IV. The exclusive rights and privileges herein granted to the said Company by the said State, shall be enjoyed by the same for the fixed period of eighty-five years, counted from the day in which the canal shall be completed and put in use.

V. The Company hereby agrees to pay to the said State for the said grant the following sums of money: namely,

First. Ten thousand dollars by draft on the said Company in the city of New York, as soon as this contract shall be ratified by the Legislature of the State.

Secondly. Ten thousand dollars at the expiration of one year from this same date; and 10,000 dollars each year thereafter until the completion of the said canal; the above sum to be paid to the State in the city of Leon, or in the city of New York, as the State may elect. Also the said Company makes a free donation to the said State of 200,000 dollars of stock in the enterprise, which shall be delivered to the State as soon as the certificates of stock shall be distributed by the Company.

VI. Said State shall receive for its proportion of the income of said canal, after the same shall be put in use, the following interests: namely, for the first twenty years, 20 per cent. annually out of the net profits, after deducting therefrom the interest of the capital employed in its construction at the rate of 7 per cent. per annum, and 25 per cent. each year thereafter of said net profits, after deducting the said 7 per cent., until the expiration of the full period of the term hereinabove granted. And the State shall also receive 10 per cent. out of the net profits, without any deduction of interest, of any route which the Company may establish between the two oceans, whether it be by railroad, or carriage-road, or by any other means of communication, during the twelve years herein granted for the construction of said canal.

VII. The said Company shall be bound to make and present an annual report and account to the Government of Nicaragua, setting forth the receipts and expenditures, as well as a statement of the condition of the works of the canal; which report shall be certified by the proper officers of the Company. The State, however, shall have the right, through any Commissioners which it may appoint for that purpose, to inspect and examine at any time the books of the Company, to satisfy itself of the correctness of the said receipts and expenditures.

VIII. It is hereby stipulated that the State of Nicaragua shall have the privilege of taking stock in the said canal, to the amount of 500,000 dollars, within one year from the date of the ratification of this contract, which it may distribute, as it may deem proper, among any of its native citizens, or the citizens of the adjoining States, upon giving notice to the Company of such intention through the United States Consul in the city of Leon.

IX. It is further stipulated that a majority of the stock of said canal shall always be owned by citizens of the United States; in evidence of which the stock-books of said Company shall always be open to inspection at the principal office of the Company, wherever the same may be located.

X. The Company binds itself to commence the preliminary surveys for said works within the period of twelve months from the date of the ratification of this contract, and also to complete the said canal within twelve years from the same date. But if any fortuitous or unforeseen events, beyond the control of the Company,—as for example, earthquakes, epidemics, wars, or

any other events of this nature,—should appear during the progress of the work to suspend its execution, the time thus lost shall not be reckoned as a part of the stipulated time above given for its completion. In case such event should occur, the Company shall give immediate notice to the Government of the same, for the purpose of deciding, in connection with the Company, upon the nature of such event.

XI. If none of the events which are expressed in the preceding Article should occur, and the work shall not be completed within the said period of twelve years, then, whatever may have been done by the Company to that time in the prosecution of the work, shall be forfeited to, and become the property of, the State without any indemnity.

XII. The State gives to the said Company the right to take, free of any charge or indemnity, any of the public lands or forests within the State, all the wood, stone, lime, timber, or any other materials which it may require for the construction and use of said canal and its dependencies. And the said State hereby further gives to the Company the right to take and make use of such portions of the public lands as it may require for the establishment or erection of houses, stores, docks, wharfs, stations, and all other useful objects connected with the works of said canal.

XIII. In case the Company shall require any materials, such as wood, lime, stone, &c., which may be found in or upon the lands of particular individuals, it shall be obligated to pay for the same at such price as may be agreed upon between the Company and such individuals. But all the lands which may be required for the passage of the canal in its entire route, shall be at the expense of the State, and the Company shall not be liable to pay any indemnity for the same.

XIV. All the articles that the Company may require, both for the surveys and explorations, and for the construction and use of the works of the canal, such as machines, instruments, tools, &c., and all other necessary materials, shall be admitted into the State free of duties of all kinds, and may be discharged in any of its harbours, or at any other point within its territory that the Company may select; in this last case, however, giving notice of such intention to the proper Government officer. But the Company shall have no right to introduce within the territory of the State any goods, merchandize, or any other articles of commerce for sale or exchange without paying the duties established by law. And they are also prohibited from importing any articles or materials, which may be monopolized or prohibited by the State, for any purpose, except for the use of the works of the canal.

XV. The State binds itself to facilitate and aid in every possible way the engineers, contractors, employes, and labourers who may be employed in the explorations and surveys of the route, and in the construction of the works of the canal; and to this end stipulates that all citizens of the country who may be so employed by the Company, shall be free and exempt from all civil or military service of the State whatsoever; but to entitle them, however, to the right of exemption from such military service, they shall have been previously in the employ of the Company, for at least the period of one month. The State also guarantees to all foreigners who may be employed on the works of the canal the same rights, liberties, and privileges as are enjoyed by inhabitants of the country; and also that they shall not be molested or disturbed in their labours while thus employed, by any internal commotions or disorders of the country; and at the same time that they shall be free and exempt from all taxes, duties, or direct contributions whatsoever during the time they may be in the Company's employ.

XVI. The said Company agrees to receive from the State as labourers upon the works of the canal any convicts who may be capable of labour, upon such terms as may be agreed upon between the Company and the State.

XVII. The said Company agrees to transport across the said canal all passengers, goods, merchandize, and materials of every description which may be intrusted to it; and also stipulates that the canal shall be open to the transit of vessels of all nations, subject to fixed and uniform rates of tolls that may be established by the Company.

XVIII. The Company shall establish a tariff of fees or tolls for the trans-

portation of all passengers, goods, wares, merchandize, and property of every description, and for vessels of all kinds passing through or along the said canal, which shall have the force of law from the moment in which it shall be communicated to the Government of Nicaragua, which shall be obliged to sanction the same within eight days after its reception ; and at the same time, with a view to induce the largest and most extended business by this route, the said Company agree to fix the said tariff of fees or tolls for the same, at the lowest possible rate consistent with the mutual interests, both of the State and the Company ; and in case that the Company should determine at any time to alter such tariff, it shall be incumbent upon it to give six months' previous notice of such determination in the State paper of Nicaragua and in the principal seaport towns of the United States.

XIX. The rate of tolls and charges for the transit of the products and manufactures of the State of Nicaragua and the adjoining States shall be regulated by a particular and more favourable tariff, which shall be agreed upon between the State and the Company.

XX. The State grants to all steamers and vessels of the Company during the continuance of this contract, the right of ingress and egress to, from, and through all its harbours, rivers, and waters both on the Pacific and Atlantic Oceans, and the interior, and the use of the same free of all duties or charges of any kind whatsoever, as, for example, anchorage, tonnage, &c.

XXI. The State hereby stipulates that all vessels and steamers of the Company, and also all goods, merchandize, manufactured articles, or any other property which may be conveyed therein passing through the said canal from one sea to the other in either direction to any foreign country, shall be free and exempt from all kinds of Government duties or taxes whatsoever, and shall also be secure and protected from all interruption or detention in their course on the part of the State.

XXII. The Company shall furnish to the State annually a list of all its vessels employed in the navigation of the route, containing the names and descriptions of each of such vessels, which shall be registered in the archives of the State, and thereupon the State shall give to the Company a separate certificate of the register of each one of the said vessels, signed by the proper officer of the Government, which certificate shall serve always as a passport for said vessels through all the harbours of the State, upon presenting the same to the custom-house or harbour-officer.

XXIII. The exclusive right which the Company has acquired by this contract of navigating the said lakes, rivers, and waters of the said State by means of steam-vessels, from one sea to the other, is understood as not to exclude the natives of the country from free interior navigation by means of sailing, or any other vessels, excepting steam-vessels.

XXIV. The Company binds itself to transport by the said canal, on board of any of its vessels, all the principal officers of the Government and its subalterns, in case of Government necessity, from one point of the said route to any other one at which said vessels may stop, without any charge to the State therefor.

XXV. The Company is to convey by any of its steamers or vessels, free of cost or charge over the route of the said canal, all the official correspondence of the State, in consideration of which the State agrees not to collect or recover any postage or duties of any kind upon any of the correspondence of the said Company.

XXVI. The Company binds itself to construct, at its own expense, bridges upon that part of the canal that may be made between the lakes and the Pacific, upon such principal highways as may be agreed upon between the State and the Company. The said State, with the consent of the Company, shall establish rates of toll or charges upon such persons or things as may pass over said bridges, the profits from which shall be appropriated to redeem the capital invested in their construction, and the interest thereon, at the rate of 7 per cent. per annum ; and when such capital and interest shall have been re-imbursed to the Company, then the profits shall be divided equally between the State and the Company for the remaining period of this contract, but such bridges shall continue under the control and management of said Company.

XXVII. The State of Nicaragua, with the object of facilitating the colonization of the lands contiguous to the River St. John, and the adjacent rivers, and of the canal which in or along it may be constructed, makes a free donation to the Company of eight stations or sections of land to be located at such points upon either one or both of the banks of the said river or canal as the Company may elect, each one of which stations shall be of six English miles in length, fronting upon the river or canal, and six miles in width, measured from the bank of the canal or river towards the interior. And the State further grants to the Company the right of alienating the lands which compose said sections to settlers, or any other person or persons who may wish to locate themselves upon the same. Said sections of land are granted upon the following conditions:

1. They shall be located by the Company in such a manner that they shall be at least three English miles distant from each other.

2. That no one of them shall be located within the distance of four and a half English miles from the mouth of the St. John's river.

3. The State reserves to itself the right to such points as shall be necessary for its military fortifications and public buildings.

4. That the lands granted shall not be alienated to settlers until six months after the commencement of the survey of the route of the said canal.

5. The State reserves to itself the supreme dominion and sovereignty over said lands and their inhabitants.

6. That said lands shall not be alienated by the Company to any Government whatsoever.

XXVIII. The colonies which the Company may establish upon said lands shall be colonies of Nicaragua, and thereupon the settlers shall be subject to the laws of the State the same as the natives of the country, being however exempt for the term of ten years from all taxes and direct contributions, and from all public service, as soon as each colony shall contain at least fifty settlers.

XXIX. The State further agrees that in case any event may hereafter occur, as named in the preceding Article X, to suspend or prevent the construction of the canal, or if the said contract shall become forfeited, or annulled by either or both of the parties, and also in case the said contract shall continue in force for the full period of eighty-five years, mentioned in the preceding Article IV, the said State shall always acknowledge as private property the lands which may have been alienated or ceded by the Company to settlers or other persons in virtue of the legal title which the Company has acquired by this contract to the said lands.

XXX. The Company shall have the exclusive right to construct rail or carriage-roads, and bridges, and to establish steam-boats and steam-vessels on the said rivers and lakes as necessary accessories to and in furtherance of the execution of the canal; but the Company hereby stipulates and agrees that in case the construction and completion of the said canal or any part of it becomes impossible by any unforeseen event or insurmountable obstacle of nature, to construct a railroad or rail and carriage-road, and water-communication between the two oceans, provided the same may be practicable, within the same period as is stipulated for the building of the said canal, and subject to the same terms, conditions, regulations and restrictions, as far as they can be made applicable to the same.

XXXI. The State hereby binds itself not to sell or dispose of any of its public lands located upon or near the river St. John's, or upon or near any of the routes or points designated in Article I of this contract, until after the surveys shall have been made, and the route determined of the said canal.

XXXII. The State also binds itself to protect and defend the Company in the full enjoyment of the rights and privileges granted in this contract, and also binds itself not to contract with, or cede to, any Government, individual, or companies whatsoever the right of constructing a ship canal, railroad, or any other communication across its territory between the two oceans, or the right of navigating by means of steam-vessels any of its rivers or lakes which may be occupied by this Company while this contract continues in force. But, should this contract become forfeited or annulled, then the State shall be privileged and free to contract with any other individuals or companies as it may deem proper.

XXXIII. In case any dispute or controversy shall arise, during the existence of this contract, between the State and the Company, the same shall be determined by a reference to five Commissioners, to be chosen in the following manner, viz., two to be named on the part of the State, two named by the Company, and the fifth to be selected by the four thus appointed, who shall hear and determine the matters in controversy, and decide upon the same; which decision of the said Commissioners shall be final and without appeal, and binding upon both the State and the Company.

XXXIV. It is further provided, that in the event of the four Commissioners thus chosen not being able to agree upon the selection of the fifth, the State and the Company shall then choose three individuals, out of which number they shall select one to act as such fifth Commissioner; but should they disagree in such selection, then the choice shall be made out of said number by lot.

XXXV. After the period of the eighty-five years herein granted to the Company shall have expired, the Company shall surrender to the State the canal or roads, and its dependencics, revenues, and privileges, free from all indemnity, for the capital which may have been invested in the said work. But it is nevertheless stipulated that the Company shall receive fifteen per cent. annually out of the net profits of the canal for the period of ten years after such surrender, provided the cost of the same shall be less than twenty millions of dollars; but should the cost be twenty millions of dollars or more, then the Company shall receive said fifteen per cent. for the period of twenty years after such surrender.

XXXVI. It is expressly stipulated on the part of the State of Nicaragua that the vessels, products, manufactures, and citizens of all nations shall be permitted to pass upon the proposed canal through the territory of the State, subject to no other nor higher duties, charges, or taxes than shall be imposed upon those of the United States; provided always that such nations shall first enter into such Treaty stipulations and guarantees respecting said canal as may hereafter be entered into between the State of Nicaragua and the United States.

XXXVII. It is finally stipulated that this contract, and the rights and privileges which it confers, shall be held inalienable by the individuals composing the Company herein named and their associates; and that it shall never, in whole or part, be transferred or assigned to any other Company, nor in any way become dependent upon or connected with any other Company, whatever may be the objects of the same.

XXXVIII. The present contract shall be ratified by the Legislature of the State in the shortest possible period; and on the part of David L. White shall be ratified immediately after, as agent of the Company which he represents, in virtue of the powers conferred on him to this effect.

In testimony of which we, the respective Commissioners, have signed and sealed the present contract in triplicate, in the city of Leon, in the State of Nicaragua, the twenty-seventh day of August, in the year of our Lord one thousand eight hundred and forty-nine.

(L.S.)	HERMEND. ZEPEDA.
(L.S.)	GREGORIO JUARES.
(L.S.)	DAVID L. WHITE.

No. 12.

Mr. Abbott Laurence to Viscount Palmerston.—(Received November 24.)

My Lord,

United States' Legation, November 22, 1849.

YOUR note of the 13th instant seems to call for a reply on my part. Not desiring to embarrass this question with discussions if they can be avoided, I have preferred following your example, and add what I have to say in a separate note.

The United States have seen with satisfaction the liberal course pursued by Her Majesty's Government as to the laws regulating the commerce and navigation of Great Britain, and hail them with the more delight that they are the

response to an invitation held out by Washington, and more than thirty years since made a public law under one of his successors. They have rejoiced too, as they have beheld the evidence of a friendly feeling towards themselves on the part of this great nation, and they have responded to these tokens by sincere assurances of friendship. They earnestly desire that the two greatest commercial nations may become more firmly united for peaceful works, disputing in a friendly feeling and on a liberal basis for the commerce and carriage of the world, and rivalling each other only in their endeavours to advance the general interests and welfare of mankind.

Influenced by such motives they have seen with regret that on a coast commanding one outlet of what is supposed to be the best route for a ship-canal from ocean to ocean, a tribe of savages has been clothed with a sovereignty which they cannot but consider unfounded. They saw in this new difficulties in the way of the construction of a most important channel for the peaceful commerce of the world, and they feared that ulterior purposes lay behind it. It seemed to them that no great maritime nation ought to desire or be permitted to have an exclusive foothold on the Isthmus; but that its efforts and influence should be confined to guarantees of neutrality.

From the liberal and enlarged spirit in which our advances have been met by your Lordship, I cannot but hope that this block in the way of this great enterprise may be removed; that the Mosquitos may be provided for in a manner fully satisfying the demands of philanthropy and justice; that other causes of difference may be satisfactorily adjusted, and we spared a discussion which could only defer what we both wish to effect, and perhaps lead to more serious results.

You have spoken of the Treaties. The United States have nothing to conceal; and I have, under instructions, forwarded with my other note of even date copies of everything furnished me thus far from Washington. You will see by these the nature of the Treaty negotiated by Mr. Squier; that while it indeed rests upon the validity of Nicaragua's claim of sovereignty from ocean to ocean, it seeks to secure nothing exclusively to the United States; that it contemplates an invitation to the world to join in its provisions for the world's welfare. I have reason to believe that the United States are as firm as they are sincere on this point.

I have, &c.
(Signed) ABBOTT LAURENCE.

No. 13.

Mr. Abbott Laurence to Viscount Palmerston.—(Received December 15.)

*United States' Legation,
138, Piccadilly, December 14, 1849.*

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, has the honour to call the attention of Viscount Palmerston, Her Majesty's Principal Secretary of State for Foreign Affairs, to the political condition of Central America, and the plans for the construction of a railway and ship-canal through that country from ocean to ocean, which have recently been the subject of conversations and correspondence between the Undersigned and his Lordship, and about which it seems desirable that the respective views of the United States and Her Majesty's Government should be mutually and definitely understood.

The Undersigned desires first to recapitulate the facts illustrating the present position of this question. Great Britain and the United States both profess to desire to see constructed highways from the Atlantic to the Pacific; both wish to see those highways properly guarded during construction and after completion; both desire to see them, when finished, placed upon such a basis as will entitle them to the confidence of the world. Each has an interest in them approached only by that of the other. For Great Britain they will open new and shorter routes to her Eastern empire; for the United States they will be the bridge connecting the Atlantic with the Pacific States, and consolidating their vast territory: above all, for the world, by opening new avenues for its

commerce and greater facilities for friendly intercourse, they will offer strong guarantees for the continuance of peace and the increase of goodwill.

The United States have already taken the initiatory steps for such results. Permission to construct a railway across the Isthmus of Darien near Panamá has been granted to a private company of American citizens, who have been joined by British capitalists, and the work is now under construction, its neutrality guaranteed by a Treaty of the United States with New Granada. The State of Nicaragua has also granted to certain citizens of the United States the right to construct a ship-canal from sea to sea through her territory, and the neutrality of this route also is guaranteed by a Treaty, concluded but not yet ratified, between the United States and Nicaragua. This Treaty will probably be submitted for ratification to the Senate at its present session; and the Undersigned has been informed it is proposed to offer the subscriptions for the canal stock to English and American capitalists. Copies of these several Treaties and charters the Undersigned has already had the honour to submit to Lord Palmerston.*

The United States have disclaimed all intention to settle, annex, colonize, or fortify the territory of Central America; which declaration has been met by a similar disclaimer on the part of Great Britain. Her Majesty's Government have intimated their willingness to join with the United States in their guarantees of neutrality.

To this brief statement may be added that the Undersigned has learned unofficially through the public press, that the Chargé d'Affaires of the United States at Guatemala has obtained from the Government of Honduras the cession of an island in the Pacific Ocean, with reference to the wants of the proposed canal, from which, if correct, it would appear that arrangements have been made by the United States for its western outlet.

From the foregoing statement it appears that Great Britain and the United States agree on all the main points. Lord Palmerston will also undoubtedly coincide with the Undersigned in the belief that without such agreement this work may be delayed. No other nations in the world have so important interests to be affected by it; no others have the requisite capital at command; no others have shown a willingness to guarantee the neutrality essential to its safety; and capital, always timid, would shrink from it without such guarantee, much more were it the cause of disagreement between these two nations. Though Great Britain or the United States may each be in a position to do this work single-handed, yet neither would probably desire to do so. It may, therefore, be assumed that the two countries desire to go on with the work, through their respective capitalists, together and harmoniously, and that in the absence of any obstacles it would be soon completed and in operation.

The only apparent obstacles are, the boundary disputes between the different States of Central America, the claims made in favour of the Mosquito Indians to a portion of the territory of the eastern coast of the Isthmus, and the British occupation of Greytown. Desiring to remove, if possible, these impediments, the Undersigned offers for the consideration of Viscount Palmerston certain suggestions, in the hope that his Lordship will either coincide with the views of the Undersigned, or will offer some others more feasible.

In regard to the boundaries of the States of Central America, the Undersigned is persuaded that, if these States fail to settle them amicably, they can be induced to submit their disputes to the arbitration of certain citizens of the United States and Great Britain, appointed by those two Governments, whose decision shall be final. The kind offices of these two nations might be further extended to a recommendation to the several States of the Isthmus to reunite under a Federative Government, both for the better social development of that people, and the peace of a country becoming so important to the world.

With respect to the Indians, the United States are convinced that their claim is against well-settled principles of public law, and its admission would virtually surrender to barbarism much of the American soil now in the possession of the aborigines.

The Undersigned is sensible that, unless the views of the two Governments on this subject can be harmonized, the co-operation so much desired will be prevented; and feeling confident that Viscount Palmerston, as well as himself,

would deprecate such a result, he begs leave to present certain considerations which he believes may bring the two nations together.

In a former communication Viscount Palmerston has said that "a close political connection has existed between the Crown of Great Britain and the State and territory of Mosquito for a period of about two centuries." It is no purpose of the Undersigned at present to consider the nature, object, or history of that connection. He alludes to it simply to call Lord Palmerston's attention to the great changes which in that time have come over the world. Its commerce has increased in an almost untold ratio. Facilities of intercourse exist then undreamed of. New nations have become powerful on lands then scarcely discovered, and entirely unknown. Old kingdoms then great, have faded away; older Powers still have been reanimated by an infusion of Christian vigour. And now, by a combination of these circumstances, with a future in prospect surpassing them all, the eastern coast of Central America has received an importance it has never before possessed.

It appears to the Undersigned that the just interests of humanity demand that this territory should be open to the great object under consideration, without let or hindrance, even though the claims of these savages were valid. They can be properly provided for otherwise. But the face of nature cannot be changed. And in order to give full confidence to the capitalists of Europe and America, neither the United States nor Great Britain should exercise any political power over the Indians, or any of the States of Central America. The occupation of Greytown and the attempt to establish a protected independence in Mosquito, throw at once obstacles in the way, excite jealousies, and destroy confidence, without which capital can never flow into this channel. Nicaragua, too, stands in a position to demand the goodwill of all entering into this work. She holds the undoubted western key; and should she refuse the right to traverse her territory, except on the recognition of its integrity, neither Great Britain nor the United States could take that right by force. She has, too, already granted the only available charter ever given, and the grantees stand ready to go on when they can be assured of protection.

The Undersigned can discover no course that will ensure the accomplishment of this great work except the extension of Nicaragua from shore to shore, including of course the dedication of Greytown to the purposes of the canal, which Her Majesty's Government have already expressed a willingness to do. The Indians must be properly cared for. The United States would view with no less concern than Great Britain the practice of any harshness towards that people. The right might be guaranteed to them to pursue their usual occupations within definite limits, ample for such a purpose, with a condition that, if any nation, corporation, or company have acquired, or may acquire, the privilege of constructing a communication between the Atlantic and Pacific Oceans by means of a canal, and if such communication shall necessarily pass through the lands assigned to the Mosquitos, a reasonable compensation shall be secured to them, which shall be paid by Nicaragua for the extinction of their title to so much of that territory as may be necessary for the objects in view. In that event, of course, the sovereignty of the whole territory would rest in the Spanish States; the whole arrangements and stipulations on their part, however, with regard to the Indians, to be made satisfactory to the United States and Great Britain, and proper stipulations made for enforcing the same.

The execution of these suggestions would require the conclusion of Treaties between Great Britain and some of the States of Central America, as well as the United States and the same States; and the Undersigned is obliged to say, that the United States have no power over any of them, and he no authority to speak for them. He can assure Viscount Palmerston, however, that, in the event of these suggestions meeting the views of Her Majesty's Government, the United States will spare no proper exertion to induce those Powers to become parties to such an arrangement.

The Undersigned has, therefore, the honour to inquire of Viscount Palmerston whether Her Majesty's Government are willing to enter into a Treaty with Nicaragua, similar to that negotiated by Mr. Squier on behalf of the United States; whether they are willing to enter into a Treaty with New Granada guaranteeing the neutrality of the railway now under construction; and whether they are willing to let the Protectorate of the Indians pass to

other hands, under proper checks and guards for their humane treatment, and let such parts of the territory said to be occupied by them as may be necessary be dedicated to this great work.

A ship-canal connecting the two oceans will do more to perpetuate peace between Great Britain and the United States, and in fact the whole world, than any work yet achieved. After the lapse of centuries, during which various companies have been formed for its construction, and have failed, we have the opportunity to exhibit anew the power and energy which have made us the two greatest commercial nations on earth. It is our mission to extend commerce—the pioneer of civilization and child of peace—to all parts of the world ; to cultivate friendly relations with all ; to bring the distant near ; and to illustrate by our example the elevating effects of Christianity.

There is a fitness in our union for the purpose of opening a great channel of communication, saving a distance of more than 10,000 miles, given up to the use of the world, dedicated to peace, and working out incalculable benefits to mankind. Let us construct the work on the only practicable basis, and invite all nations to join in the guarantee of its neutrality, that neither now nor hereafter jealousies may arise on the part of those who may be the recipients of its benefits.

The Undersigned begs leave to add further, that he has reason to believe that the people of Great Britain and the United States entertain the same feelings in regard to the importance of this work, and stand ready to enter on its construction, as they have already on that of the railway, when they can see their investments guarded by suitable guarantees. He ventures to express the hope that Viscount Palmerston will give this subject an early consideration. The Congress of the United States is now in session ; and he is anxious to transmit the decision of Her Majesty's Government to the President.

The Undersigned, &c.

(Signed)

ABBOTT LAURENCE.

No. 14.

Sir Henry Bulwer to Viscount Palmerston.—(Received January 22.)

(Extract.)

Washington, January 6, 1850.

A CORRESPONDENCE that has taken place between the Minister of Foreign Affairs of the State of Honduras and Mr. Chatfield, Her Majesty's Consul-General at Guatemala, relative to the temporary occupation, by Her Majesty's forces commanded by Captain Dollond, of Her Majesty's steam-vessel "Plumper," of the port of Truxillo, and the seizure in Her Majesty's name of the Island of Tigre, in the Bay of Fonseca, which island was taken possession of by the Commander of the "Gorgon," at the request and under the authority of Mr. Chatfield, has produced much excitement here.

Your Lordship is aware that Mr. Hise, not long since an agent of this country under a former Administration, obtained by Treaty what was called the exclusive right of navigating a canal to be constructed by an American Company from the Atlantic to the Pacific through the State of Nicaragua, but what was, in fact, in its evident meaning and numerous stipulations, a cession of the whole State of Nicaragua to this Republic, which, had Mr. Hise's Treaty been accepted, would have been bound to claim as the territory of Nicaragua a portion of that country over which we have always maintained and recently asserted the dominion of the King of the Mosquitos.

Mr Hise was recalled, and the present President has considered his Treaty to be one that did not deserve his sanction. But Mr. Squier, sent out by Mr. Clayton to replace Mr. Hise, has followed as closely as possible the conduct of his predecessor. In public speeches he has seemed to claim a sort of protectorate for the United States over those Central American Republics amidst which his functions have placed him ; and having made a Treaty with Nicaragua with respect to the canal that had occupied Mr. Hise's attention

less objectionable in form than that of Mr. Hise, but throughout which may be traced an under-current of the same feelings and pretensions, he furthermore entered into a Treaty with the State of Honduras, by which the Island of Tigre was ceded to the United States—a fact that, without hesitation, or reference to his own Government, he immediately notified.

Mr. Clayton has, on various grounds, manifested a desire to approve, with some modifications, of Mr. Squier's first Treaty with the State of Nicaragua; but he has told me that he has refused to sanction Mr. Squier's second Treaty with the State of Honduras.

I have given Mr. Clayton the most positive assurances that I am convinced that Her Majesty's Government has had no object in any instructions it may have given to Mr. Chatfield (of which instructions I have, however, professed myself not to be officially informed), beyond the settlement of its just claims on the State of Honduras.

I stated also to Mr. Clayton, that Great Britain and the United States having so lately declared that neither entertained any projects of selfish ambition over Central America, they might fairly and entirely unite in advancing the only interest which really concerns them in that part of the world, viz., the progress of commerce and civilization.

I found Mr. Clayton disposed to take up these views.

No. 15.

Sir Henry Bulwer to Viscount Palmerston.—(Received January 22.)

My Lord,

Washington, January 6, 1850.

WITH reference to my preceding despatch of this date, I have the honour to inform your Lordship that I am authorized by Mr. Clayton to say, that he will be quite willing to send to the United States' Agents in Central America, instructions identical with those to be transmitted by your Lordship to the Agents of Great Britain in that country, taking as a basis for the same, that neither Great Britain nor the United States proposes to obtain for itself any peculiar or exclusive advantages, nor extend its dominion in that part of the world: and that, consequently, it will be the duty of such agents, instead of attempting to counteract projects which do not exist, by placing themselves at the head of rival parties, to lend each other mutual assistance in the transaction of the business with which their respective Governments may charge them.

Should your Lordship favour me specifically with any form of instruction containing these sentiments, I have little doubt that Mr. Clayton will at once adopt it.

I have, &c.
(Signed) H. L. BULWER.

No. 16.

Sir Henry Bulwer to Viscount Palmerston.—(Received January 22.)

(Extract.)

Washington, January 6, 1850.

SINCE arriving in this country, I have taken some pains to ascertain in what way the questions that have arisen between Her Majesty's Government and that of the United States, with respect to Nicaragua and the Kingdom of Mosquito, might be brought to a prompt and satisfactory conclusion. Your Lordship is aware that the main interest of the United States in this matter

has arisen from its newly acquired possessions in the Pacific, and the project of an American Company to form a water communication between the two oceans, passing through the Lake of Nicaragua and the River San Juan; this company having obtained from the State of Nicaragua the use of its lakes and territory for this purpose, and the use also of the River San Juan, to which Nicaragua lays claim.

In this manner the Government of the United States became interested in the pretension of the Nicaraguans, and desirous to establish the fact that the River San Juan, ceded by the Nicaraguans to an American company for an object of the utmost interest to America, should be placed at the disposal of the State making that concession. This first interest in the claims of Nicaragua, therefore, proceeds from an interest in the construction of the canal to which I have been alluding.

But it so happens, that while it is very difficult, not to say impossible, for Her Majesty's Government to listen to those claims of Nicaragua, our decision with respect to which has been already openly taken, there is no difficulty, I believe, whatsoever in Her Majesty's Government assisting the United States' Government in its general views with respect to that water communication across Central America, which Great Britain must be almost as desirous as the United States to see established. Our great object, therefore, as it has appeared to me, is to displace the discussion from the claims of Nicaragua and Mosquito, on which it is unlikely that the two Governments of Great Britain and the United States should agree, and bring it to the consideration of the canal, on which it is almost certain that their views will be identical.

Having conversed with several persons of importance, and of different parties on this subject, and with Mr. Clayton himself, I am disposed to think that the best means of doing this is by a Convention between Great Britain and the United States, having for its object to facilitate the construction of the desired passage between the Atlantic and the Pacific, upon such terms as without entering upon the question of the rival claims of Nicaragua and the Mosquitos, would confer upon American commerce all it can desire to obtain in a manner corresponding with the dignity and honour of Great Britain, and the disinterestedness of her protectorate over the Mosquito territory.

No. 17.

Mr. Abbott Laurence to Viscount Palmerston.—(Received January 31.)

United States' Legation, January 30, 1850.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, has the honour again to call the attention of Viscount Palmerston, Her Majesty's Principal Secretary of State for Foreign Affairs, to the condition of Central America, and the proposed ship-canal from ocean to ocean.

In a note to Lord Palmerston, dated the 14th of December last, the Undersigned, among other things, said that he had "learned unofficially through the public press that the *Chargé d'Affaires* of the United States at Guatemala had obtained from the Government of Honduras the cession of an island in the Pacific Ocean, with reference to the wants of the proposed canal, from which, if correct, it would appear that arrangements had been made by the United States for its western outlet." By the last mail from the United States the Undersigned received official confirmation of this statement, and with it other intelligence which he regrets to be obliged to lay before Lord Palmerston, as it tends to interrupt the harmonious feeling which has hitherto marked the progress of the negotiation on the subject.

On the 28th day of September last, the Government of Honduras made a formal cession of the Tigre Island, in the Gulf of Fonseca, to the United States, for the purposes above mentioned, to hold absolutely for eighteen months, or until the ratification of a Treaty that day signed by the Plenipotentiaries of the

United States and of Honduras, should the ratifications be exchanged at an earlier day; and on the 9th of October following a decree was issued by the President of Honduras confirming and announcing said cession. Notice of this cession was duly given by Mr. Squier, the Diplomatic Representative of the United States, to the several foreign Legations, and among others to Mr. Chatfield, Her Majesty's Diplomatic Representative. On the 16th of October, Mr. Chatfield, with an armed force of Her Majesty's service, seized and took possession of the Tigre Island, and occupied the same in Her Majesty's name; and on being subsequently notified by Mr. Squier of the cession, and requested to surrender it to the United States, refused so to do, claiming it as within British jurisdiction and under British sovereignty. The Undersigned has also learned that other islands in the same gulf have been in like manner taken possession of and occupied by Mr. Chatfield, and that several of the ports of San Salvador and Honduras have been blockaded by British forces.

Proceedings of this violent character during the known pendency of negotiations on this subject between the United States and Great Britain, have naturally excited distrust of the purposes which prompted them. While the people of the United States and of Central America desire nothing but the construction and protection of the canal on the basis already referred to in the correspondence between the Undersigned and Lord Palmerston, they very reasonably have doubted whether these liberal views are shared by Her Majesty's Government, seeing, as they have, a claim made by Great Britain to an exclusive interest in the keys of the route on both oceans, under different pretexts. The Government of the United States, relying on the declarations of Her Majesty's Government, contained in Lord Palmerston's note of the 13th of November last, has not shared this distrust. But in order to protect its just rights in Tigre Island, and to carry out its generous purposes in regard to the construction of the canal, as well as to allay the distrust and the hard feeling engendered thereby, it has instructed the Undersigned "to ask for a disavowal of all acts of Mr. Chatfield or others, which have for their object to extend British jurisdiction over any part of the Central American States." He has therefore the honour to inquire of Viscount Palmerston whether the seizure and occupation of Tigre Island was authorized and is approved by Her Majesty's Government; and whether any other acts done by Mr. Chatfield or others in Her Majesty's name, having for their object to extend the British jurisdiction as aforesaid, were in like manner authorized, or are approved.

The Undersigned has the honour to inclose copies of the Treaty of Cession, of the Decree made thereon, and of such parts of the voluminous correspondence growing out of the seizure, as is necessary to exhibit the facts.

The Undersigned has been instructed to ask for an early answer to this note, and in complying with his instructions he would again express his own strong desire to see the question speedily settled.

The Undersigned, &c.

(Signed)

ABBOTT LAURENCE.

Inclosure 1 in No. 17.

Protocol.

THE United States of North America, and the Republic of Honduras, desiring to secure, for the benefit each of other and the general good of mankind, the full and perfect enjoyment of the advantages of the proposed grand Inter-oceanic Canal through the Isthmus of Nicaragua, and anxious to remove any cause of apprehension that the Island of the Tigre, in the Gulf of Fonseca, and commanding the same, may fall into the possession of foreign and unfriendly Powers, whereby the free transit of the commerce of the world may be obstructed, and the usefulness of the contemplated great work impaired: for the accomplishment of these, and other important objects, we, the Plenipotentiaries of the United States and of the Republic of Honduras, have agreed and do agree to the following Articles:

ART. 1. The Republic of Honduras cedes to the United States of North America the Island of Tigre, in the Gulf of Fonseca, for the time pending the ratification or rejection of the General Treaty between the two Republics, this day signed by the Undersigned Plenipotentiaries of the same, provided such time shall not exceed eighteen months.

II. A decree to this effect shall be immediately issued and published, in due form, by the actual Government of Honduras, under the authority of which the principal diplomatic officer of the United States in Central America, or his representative, shall, in the name of his Government, take possession of the said island, and adopt such measures as he may deem proper to secure the objects set forth in the foregoing preamble.

III. Nothing in these Articles shall be understood to alter or impair the laws and regulations at present existing in said Island of Tigre.

In witness whereof, we, the Plenipotentiaries of the United States of North America and of the Republic of Honduras, have hereunto set our hands and seals.

Dated in the city of Leon de Nicaragua, this, the twenty-eighth day of September, in the year of Our Lord one thousand eight hundred and forty-nine, and of the independence of the United States the seventy-fourth.

(Signed) E. GEO. SQUIER.
J. GUERRERO.

Inclosure 2 in No. 17.

Decree.

By the President, in whom is vested the Executive power of the State of Honduras.

INASMUCH as there was duly ratified between a Company of citizens of the United States and the Government of Nicaragua, on the 26th of September ultimo, a contract for constructing a ship-canal across the Isthmus of Nicaragua; and in order to remove all fear that the Island of Tigre, commanding the Gulf of Fonseca, may be occupied by any foreign or unfriendly Power, whereby the free transit of the commerce of the world may be obstructed, and the usefulness of the contemplated great work impaired, and to secure the integrity and independence of Honduras, and its sovereignty and property in the Island of Tigre, it is decreed:

ART. I. The Government of Honduras cedes to the United States, for the term of eighteen months from the date of this decree, the Island of Tigre, in the Gulf of Fonseca; within which time shall be constitutionally ratified or rejected the Convention signed at Leon de Nicaragua on the 28th of September by the Plenipotentiaries of both Governments.

II. In consequence of the foregoing cession, and in virtue of the present decree, the general diplomatic Agent of the United States in Central America, or his representative, shall have power immediately to take possession of the Island of the Tigre, in the name of the Government, and shall adopt whatever measures he may deem proper to secure the objects of this Decree.

III. Nothing in the foregoing Articles contained shall alter the laws and regulations now existing in said island.

IV. The present Decree shall be printed, published, and circulated in the territory of Honduras, and be communicated to the other Governments of Central America, and to the foreign Agents and Consuls residing in the same.

Given in Tegnoigalpa, in the House of the Government, October 9, 1849.

(Signed) JUAN LINDO.

Inclosure 3 in No. 17.

Mr. Squier to Mr. Chatfield.

Sir,

Leon de Nicaragua, October 23, 1849.

I HAVE the honour to inclose you herewith a triplicate copy of a circular which I had the honour to address to you, in common with the other foreign Diplomatic Agents resident in Central America, on the 28th of September last. A copy was also officially communicated to Her Britannic Majesty's Vice-Consul at this port. No proper means were omitted, by duplicate and otherwise, to ensure the reception of the circular by you.

I have this day received information, by an official communication addressed by the Commander of the port of Amapala, in the Island of Tigre, to the Director of Nicaragua, and by a copy of a letter addressed by the commander of Her Britannic Majesty's steam-ship "Gorgon" to the commander of said port, to the effect that, on the 16th instant, under direction from you, the commander of that station landed with an armed force on the Island of the Tigre, in the Gulf of Fonseca, lowered the flag of Honduras, and raised under a salute, that of Great Britain, proclaiming, at the same time, that the island was thereby taken possession of in behalf of Her Britannic Majesty.

No such act can be regarded by the United States as invalidating her rights to this island, acquired by formal cession on the 28th of September last, under which date you were officially advised of such cession. I am compelled to believe that the measures adopted under your orders were taken in ignorance of this fact. The United States has, therefore, the right to expect that you will give directions for the evacuation of said island as soon as practicable after the receipt of this communication, the reception of which I beg you will acknowledge (with such explanation as the gravity of the circumstance demands) in open envelope, by the bearer hereof.

I am, &c.

(Signed) E. GEORGE SQUIER.

Inclosure 4 in No. 17.

Mr. Chatfield to Mr. Squier.

Sir,

"Gorgon," Union, October 27, 1849.

I HAD the honour of receiving, soon after 6 o'clock this evening, your letter of the 23rd instant, inclosing a copy of a circular of the 28th of last month which you addressed to the foreign Diplomatic Agents resident in Central America.

Having received a copy of the same letter in yours dated the 14th instant, to which I replied on the 25th, I conceive that I shall best comply with your desire by transmitting for your information a duplicate of my letter above referred to, showing that the Honduras Government, in making a temporary cession of the Island of Tigre, in this bay, to the United States of North America, has acted improperly, and in bad faith to the United States and to Great Britain; for so long ago as the month of January last, as indeed I apprised your predecessor, Mr. Hise, at the time, verbally, England established proprietary rights over the Tigre island and its dependencies, which no subsequent arrangement on the part of Honduras, without the cognizance of England, can undo. Under these circumstances you will, I think, perceive that I have no alternative but to submit to Her Britannic Majesty's Government the determination of the point now raised by you, and to decline acceding to your proposal of surrendering the clear right of Great Britain.

I may, however, state, that owing to existing difficulties with the Government of Salvador, which the most friendly persuasions and remonstrances on my part have been unable to remove, I have asserted the same right of propriety in favour of Great Britain over the other islands in this bay.

I have, &c.

(Signed) FRED. CHATFIELD.

Inclosure 5 in No. 17.

Mr. Squier to Mr. Chatfield.

(Extract.)

November 2, 1849.

I HAVE the honour to acknowledge the receipt of your note of the 27th ultimo, in reply to mine of the 23rd preceding, in which you decline to evacuate the Island of Tigre, belonging to the United States, and forcibly occupied by British troops under your order on the 16th ultimo.

As I have already repeatedly advised you, the Island of Tigre was formally ceded to the United States on the 28th of September of this year. The subsequent occupation of the same as above stated is therefore an invasion of the rights of the United States. It now becomes my duty to apprise you that unless the Island of Tigre is evacuated within six days from the receipt of this communication, the persistence in occupation will be considered as an act of aggression, and a manifestation of an unfriendly disposition towards the United States. I cannot believe, sir, that you will take upon yourself the responsibility of disturbing the good correspondence which at present exists between the United States and Great Britain.

No. 18.

Viscount Palmerston to Mr. Abbott Laurence.

Foreign Office, February 13, 1850.

THE Undersigned, &c., has the honour to acknowledge the receipt of the official note addressed to him on the 30th ultimo by Mr. Abbott Laurence, &c., inquiring whether the proceedings of Mr. Chatfield, Her Majesty's Chargé d'Affaires at Guatemala, in ordering the occupation of certain islands in the Bay of Fonseca have been authorized and approved by Her Majesty's Government.

The Undersigned begs to state to Mr. Laurence, in reply, that Her Majesty's Government having claimed compensation from the Governments of Honduras and Salvador for certain wrongs sustained by British subjects within the territories of those Republics, and the Governments of those States not having satisfied those demands, Mr. Chatfield and Her Majesty's naval officers on the Atlantic and Pacific coasts of America were instructed to take such steps as might be necessary for obtaining just redress. In execution of those general instructions Mr. Chatfield, in conjunction with the officer commanding one of Her Majesty's ships of war in the Pacific, took possession of Tigre Island as a means of reprisal, and as a temporary pledge for obtaining from the Government of Honduras the satisfaction that was required, and the Undersigned apprehends that according to the Law of Nations such a proceeding was an allowable means of procuring redress. But when Her Majesty's Government were informed of what had taken place, the Undersigned stated in reply to Mr. Chatfield that a reprisal of this particular kind ought not to have been made without specific instructions from Her Majesty's Government, or without the concurrence of the British Admiral commanding in the Pacific; and Mr. Chatfield was therefore directed to restore the Island of Tigre to its former condition, without prejudice to any measures which Admiral Hornby might afterwards deem it necessary or right to take in order to obtain satisfaction from the Government of Honduras.

Moreover, since that instruction was addressed to Mr. Chatfield, Her Majesty's Government have heard from Admiral Hornby that when he was informed of the temporary occupation of Tigre Island, knowing by previous communications which he had received from Her Majesty's Government that Her Majesty's Government did not wish that such a measure of reprisal should be resorted to as long as any other means of obtaining satisfaction could be used, he had immediately, and without waiting for any further instructions from home, sent orders that the detachment which had been placed in occupation of Tigre Island should be withdrawn.

Tigre Island has, therefore, long before this time been evacuated by Her Majesty's forces. But Her Majesty's Government must not on that account be considered as giving up in any degree the claims which it has made on the Government of Honduras, and must hold itself free to use whatever means the Law of Nations may allow for obtaining the redress which it demands if that redress should continue to be withheld.

With regard to the declaration contained in the letter which the Undersigned addressed to Mr. Laurence on the 13th of November last, stating that Her Majesty's Government do not intend to occupy or colonize Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, it is unnecessary for the Undersigned to say that Her Majesty's Government abide by that assurance, and it can scarcely be requisite for the Undersigned to point out to Mr. Laurence that the arrangement made by Mr. Squier for the cession of Tigre Island to the United States would, if adopted by the Government of the United States, be entirely at variance with the declaration contained in Mr. Laurence's letter of the 8th of November, to which the above-mentioned letter of the Undersigned was a reply.

With respect to the other small islands in the Bay of Fonseca belonging to the State of Salvador, on which Mr. Chatfield had declared a lien as a pledge for the satisfaction which was required from the State of Salvador, Her Majesty's Government have been informed by despatches recently received from Mr. Chatfield that the Government of Salvador had made a satisfactory arrangement for the adjustment of those claims, and that he had therefore withdrawn the lien from those islands.

The Undersigned, &c.

(Signed)

PALMERSTON.

No. 19.

Sir Henry Bulwer to Viscount Palmerston.—(Received February 18.)

(Extract.)

Washington, February 3, 1850.

ALTHOUGH I have long deemed it highly desirable that the excitement which has latterly existed here, in regard to the protectorate exercised by Her Majesty's Government over the Kingdom of Mosquito, and the extent of territory belonging to that kingdom, should be dispelled, and all chance of any difference between the two Governments, on such a subject, be set at rest in such a manner as would redound to the interests and honour of them both; and although I myself have thought, after the full manner in which your Lordship explained your views to me on the whole of this question, and the knowledge which I have recently acquired of the practical bearings of it in this country, that I could safely and profitably undertake its settlement on my own responsibility; I have, nevertheless, been scrupulous as to doing so as long as the matter did not seem to require especial urgency, and as long, more particularly, as I thought it was being, or could be treated by your Lordship and Mr. Laurence in London.

I have, therefore, simply endeavoured hitherto to prepare the way for some suitable arrangement, by such explanations as seemed to me advisable and necessary, and awaited the result of your Lordship's negotiations.

The papers relative to this affair are now, however, asked for by both the Senate and the Assembly of Representatives. They would include two Treaties entered into by the different Agents of this Government with the State of Nicaragua, one which was little less than the cession of Nicaragua to the United States' Government, and which was disavowed; and the other, which, as it stands, would recognize the claims of Nicaragua over a portion of Mosquitia, and give especial privileges to American citizens. Nor is this all. There would be, amongst such papers, whatever communications have passed between Mr. Buchanan or Mr. Clayton with Messrs. Hise and Squier, and the State of Nicaragua; whatever instructions were given to Mr. Laurence relative to this subject, on his departure to England; and also perhaps a letter from President Taylor to the President of Nicaragua, acknowledging the justice of the Nicaraguan pretensions as against the King of Mosquito and ourselves, and involving, in some degree, the Government of this country in the disputes which have arisen between the Nicaraguan Republic and Great Britain.

Were such papers laid before Congress, the discussions which would take place must, without any arrangement of the matter being announced, lead to such angry discussions, and to the promulgation of such violent opinions on this side of the Atlantic, as would render any subsequent understanding between the two Governments of excessive difficulty.

I should hardly have acted, however, in any formal manner on this consideration alone, but having heard of the very serious illness of Mr. Laurence, and been informed by Mr. Clayton that if this gentleman recover he will not be able to transact public business for a considerable time, I deemed that I stood in one of those positions in which it is necessary for a public agent to take upon himself a certain degree of responsibility for the sake of the public service; and, consequently, when Mr. Clayton, after informing me of Mr. Laurence's severe indisposition, and explaining to me the very critical position in which he himself stood, added, that he must either deliver up the whole subject to popular discussion and determination, or come to some immediate settlement upon it, I entered with him into a full consideration of the affair, and finally agreed to submit to your Lordship's sanction the inclosed project of Convention.

In order to make clear the spirit and intention with which the said project is drawn up, I feel it necessary to enter, with your Lordship, into some statement of my own views with respect to the questions out of which it arises, some statement of the causes which have raised these questions into importance, and some explanation of the nature of the solution which I have given to such questions.

It seemed then to me, that Her Majesty's Government, after asserting, first by argument, and finally by force, the rights of the King of Mosquito over a particular territory, and driving therefrom the Agents of the feeble Government of Nicaragua, could not, at the demand of another Power of greater strength, restore to the Nicaraguans that territory from which they had been ejected.

Nevertheless, I was aware that the course which Her Majesty's Government pursued in this case was with a view to the general interests of commerce, as well as to those of justice; and that so far from wishing to make the protectorate which Her Majesty exercises over the Mosquito territory, or that territory itself, subservient to the views of any small, selfish, or grasping policy, it would be your Lordship's desire to make both the one and the other useful, in the widest sense of the term, to the common advantage of mankind and the universal purposes of traffic and civilization.

Such being my conviction and knowledge on the one side, I was equally certain, on the other, that the interests of the United States were only incidentally involved in the question between Nicaragua and the Mosquitos, and mainly referred to another subject, which, though connected with the disputes which have arisen as to the extent of the Nicaraguan territory, admit of a separate adjustment.

The construction of any rail or water communication across that portion of Central America which separates, by a comparatively small distance of land, the two oceans of the Atlantic and Pacific, would always have been of great interest to the United States; but since the possession of California and Oregon this interest has indefinitely increased, so that that which was once a question of convenience is now almost a matter of necessity. Thus the various routes by which a railway or canal could open a way between the two seas have, latterly, been under the constant attention of this Government; and amongst the most feasible and important of the schemes indicated has been one of a canal, from the port of Realejo, through the Lakes of Nicaragua, to the mouth of the River San Juan.

Now the State of Nicaragua made to an American company, formed for the construction of such a canal, the grant, accompanied by various favours and privileges, of all such portion of the territory claimed by it, as the said company required; and, in the two Treaties to which I have already referred, namely, those of Mr. Hise and Mr. Squier, the object of the American agents has evidently been to strengthen the contract which the above-mentioned company had made.

It was, however, impossible for the contemplated scheme to be executed under any grant from the State of Nicaragua as long as the mouth of the San

Juan river was in the hands of another people or kingdom, protected by Great Britain; and, moreover, it was generally supposed that the Government of Great Britain had placed the Mosquitos in possession of Greytown, expressly in order to get hold of this entrance to the canal passage for itself, and, at all events, to prevent its falling into the possession or being subservient to the views of any other Power.

On these grounds has arisen all the excitement here touching the British protectorate of Mosquito, and in this manner the United States has become interested in the dispute between the Nicaraguans and ourselves.

It is indeed most certainly true, that if the American company, having the grant of which I have spoken from Nicaragua, had been disposed to carry it out in its original terms, and that if the United States' Government had been prepared to accept the exact terms of the Treaties made with Nicaragua by their Agents, it would have been impossible for Great Britain to favour an undertaking which expressly established a monopoly of trade for American citizens, through the most important passage (if such a canal as that contemplated can be executed) that the commerce of the world can enjoy; and I cannot consider it unfortunate for the general interest that Her Majesty's Government should have been in a position to make its consent necessary to a work of such universal importance.

But both the American company to which I have alluded, and the American Government, have latterly manifested an earnest desire to have it clearly understood that they will modify all that portion of their original engagements with Nicaragua which secures any advantages to one State which another may not equally enjoy; and if such be the spirit which is to preside over the vast project under consideration, Great Britain has not only no interest in preventing its success, but every interest in forwarding its completion and providing for its security.

In this view of the case, the protectorate which Her Majesty exercises over the Mosquitos, instead of being prejudicial to the aforesaid enterprise, may be an essential element in its favour, and all that seemed to be required in order to bring Great Britain and the United States to a perfect understanding is, that both should abandon every particular advantage, the one such as might be derived from the protectorate over the Mosquitos, and the other such as might be derived from any contract or treaty with Nicaragua; and to make the fact that they do so clear and palpable, taking as the basis of their thorough good understanding the construction of that canal which offers benefits common to the two, and dropping as a point of controversy those disputes as to the Nicaragua and Mosquito territory, on which it is next to impossible that they should come to any agreement.

It is with such views that the inclosed Convention has been drawn up, its object being to exclude all question of the disputes between Nicaragua and the Mosquitos, but to settle, in fact, all that it was essential to settle with regard to those disputes as far as the ship-communication between the Atlantic and Pacific and the navigation of the River San Juan were concerned.

There are indeed stipulations which extend farther than the mere engagement, on our part, to use our best endeavours to obtain the free transit of this river, inasmuch as that we also in the said Convention agree, as do the United States, not to occupy or colonise either Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America: but in consenting to these provisions, I know that I merely carry out the views and opinions of Her Majesty's Government, which have been already expressed on this subject, though in a less formal manner.

I do not pretend to say that the project of Convention thus submitted to your Lordship's consideration is such, either in its precise terms, arrangements, or enactments, as I should have myself proposed, or, if there had been more time for alteration and discussion, adopted. But it settles the main question immediately at issue, and also establishes a general basis for a common policy and perfect good understanding between ourselves and the United States in that portion of the world which has latterly been the scene of constant suspicions and angry rivalries on the part of our agents, and is, moreover, the record of great and noble views entertained and expressed by two great and kind nations on one of the works most likely to commemorate our epoch and to be of the utmost interest and importance to commerce and civilization.

For these reasons, I confess that I send it to your Lordship with the humble confidence that it will, as a whole, meet with your approval. At all events, I know that it is an arrangement which Mr. Laurence could hardly have made in England, and that I myself could not have made here except after much preparation and under favourable circumstances.

I may add, that it will probably be attacked with violence by the parties who are for supporting Mr. Monroe's famous doctrine at all hazards, and who contend that Mr. Hise's Convention is the only one that this country ought to adopt or sanction; but, on the other hand, I think I can promise that it will be duly esteemed and approved of by the Senate, and carry with it the weighty sanction of all reasonable men.

Inclosure in No. 19.

Project of Convention respecting the Isthmus Canal.

THE United States of America and Her Britannic Majesty being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a Convention their views and intentions with reference to any means of communication by Ship-Canal which may be constructed between the Atlantic and Pacific Oceans, by the way of the River San Juan de Nicaragua, and either or both of the Lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean, the President of the United States has conferred full powers on John M. Clayton, Secretary of State of the United States, and Her Britannic Majesty on the Right Hon. Sir Henry Lytton Bulwer, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty to the United States, for the aforesaid purpose; and the said Plenipotentiaries having exchanged their full powers, which were found to be in proper form, have agreed to the following Articles:—

ART. I. The Governments of Great Britain and the United States hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said Ship-Canal, agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy or colonise either Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; nor will Great Britain or the United States assume or exercise any dominion over the same, or take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any state or people through or by whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the subjects or citizens of the one, any rights or advantages in regard to the commerce or navigation through the said canal, which shall not be offered on the same terms to the subjects or citizens of the other.

II. Vessels of Great Britain or the United States traversing the said canal shall, in case of war between the Contracting Parties, be exempted from detention or capture by either of the belligerents, and this provision shall extend to such a distance from the two ends of the said canal as it may hereafter be found expedient to establish.

III. In order to secure the construction of the said canal, the Contracting Parties engage that if any such canal shall be undertaken upon fair and equitable terms by any parties having the authority of the Local Government or Governments through whose territory the same may pass, then the persons employed in making the said canal, and their property used or to be used for that object, shall be protected, from the commencement of said canal to its completion, by the Governments of the United States and Great Britain from unjust detention, confiscation, seizure, or any violence whatever.

IV. The Contracting Parties will use whatever influence they respectively exercise with any State or States, or with any people possessing, or claiming to possess, any jurisdiction or right over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such States or people to facilitate its construction by every means in their power. And furthermore, Great Britain and the United States agree to use their good

offices wherever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the said canal.

V. The Contracting Parties further engage that when any such canal shall have been completed, they will protect it from interruption, seizure, or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may for ever be open and free, and the capital invested therein secure. Nevertheless, the Governments of the United States and Great Britain, in according their protection to the construction of the canal which this Treaty specifies, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally, and may be withdrawn by both Governments or either Government, if both Governments or either Government should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this Convention; either by making unfair discriminations in favour of the commerce of one of the Contracting Parties over the commerce of the other, or by inflicting oppressive exactions and unreasonable tolls upon passengers, ships, or merchandise; neither party, however, shall withdraw the aforesaid protection and guarantee without first giving six months' notice to the other.

VI. The Contracting Parties in this Convention engage to invite every nation, state or people with whom both or either have friendly intercourse, to enter into stipulations with them similar to those which they have entered into with each other, to the end that the whole world may share in the honour and advantage of having contributed to a work of such general interest and importance; and the Contracting Parties likewise agree that each shall enter into treaty stipulations with such of the Central American nations, states, or people, as they may deem advisable for the purpose of more effectually carrying out the great design of this Convention; namely, that of constructing and maintaining the proposed ship-communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such treaty stipulations.

VII. It being desirable that no time should be unnecessarily lost in commencing the great undertaking herein contemplated, the Governments of the United States and Great Britain determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this Convention.

VIII. The Governments of the United States and Great Britain, in entering into the present Convention, have not only desired to accomplish a particular object, but also to establish a general principle; they therefore hereby agree to take under their consideration any project for a canal or railway which may be submitted to them, and which may have for its purpose to connect the Atlantic and Pacific, or to shorten and expedite the transit of persons, ships, or merchandise between the two great oceans: and should either of the two Governments deem it to be beneficial to the general interests of commerce and civilization to extend its support, encouragement, or protection to such railway or canal, it will forthwith invite the other of the two Governments to be a joint party in affording such protection, support, or encouragement; and will neither request nor accept from any persons, company, or state, any advantages or privileges for its own citizens or subjects with respect to such railway or canal, which shall not be open for all other Governments to obtain for their citizens or subjects upon the same terms as those which are proposed to or accepted by itself.

(Signed)

J. M. CLAYTON.
H. L. BULWER.

No. 20.

Sir Henry Bulwer to Viscount Palmerston.—(Received February 18.)

My Lord,

Washington, February 3, 1850.

I DO myself the honour of inclosing to your Lordship the copy of a paper signed by Mr. Clayton and myself respecting the project of Convention transmitted to your Lordship in my preceding despatch of this day's date.

Mr. Clayton is most anxious to get an answer from you Lordship earlier than the 10th of April, although he has, at my solicitation, fixed that day as the one up to which he will expect one.

I have, &c.
(Signed) H. L. BULWER.

Inclosure in No. 20.

Paper signed by Mr. Clayton and Sir Henry Bulwer respecting Project of Convention.

THE Undersigned, deeming it of the highest importance to the friendly relations between their two countries to fix the attention of their respective Governments upon the terms on which a great and solid basis of amity may be established between them, and finding it necessary that this should be done with the least possible delay, if any advantages are to be derived therefrom, have drawn up and signed, as a token of their own opinions, and for the immediate consideration of their Governments, the project of a Convention, in the full form and shape of a Convention, which is this day transmitted by mail to England.

If this project be approved of by the Government of Her Britannic Majesty and the Government of the United States, on or before the 10th of April next (1850), it shall then forthwith be converted into a solemn Treaty binding between the two States.

But if, on the contrary, it should not be fully approved of by either or both these Governments on or before the 10th of April, 1850, it is then fully agreed, understood, and declared by the Undersigned that the said project is to be considered as altogether null and void; and that all that has passed relative thereto shall be held as if it had never taken place.

(Signed) J. M. CLAYTON.
H. L. BULWER.

No. 21.

Sir Henry Bulwer to Viscount Palmerston.—(Received March 4.)

(Extract.)

Washington, February 18, 1850.

I INCLOSE to your Lordship an extract from the Reports of Congress, which will show to you the efforts that are being made to have the papers relative to Nicaragua laid before the Senate, and the refusal of the President to comply at present with this desire.

I am happy to say that in thus much the agreement I came to with Mr. Clayton has been most advantageous.

Mr. Clayton, however, informed me a day or two ago, that some of his colleagues wish for alterations in the project which I had transmitted to you the week previous. This circumstance could not but occasion me considerable surprise, since the fact of his being the official organ of the President on foreign affairs, and residing on the spot where the Government was sitting, made me naturally conclude that anything suggested and signed by him would, when the proper time came, receive a general assent from his Cabinet.

Without, however, further dilating upon this subject, I shall proceed to state the views which Mr. Clayton says that some of his colleagues express.

These gentlemen, he observes, say that though we (the English) declare that Great Britain will never fortify or colonize in the vicinity of the projected canal, a declaration also made by the United States, still as long as the territory bordering thereupon is in the hands of the Mosquitos, many will contend that we mean to do under another name that which we engage we will not do under our own; and that this argument will receive colour and force from the fact that the Mosquitos are not able to establish a Government for themselves, and that the governing Council of the Mosquitos is entirely composed of Englishmen, which Council, nominally Mosquito, actually English, might build forts, establish colonies, and then call upon the protection of Great Britain.

For these reasons, says Mr. Clayton, some of the members of the Government contend that farther explanations or stipulations should accompany, or be embodied in, any Treaty of settlement between the two countries; and they are furthermore anxious, in order to prevent all future disputes or difficulties, that some arrangement should be come to as to that part of the territory now held by the Mosquitos which extends along the River San Juan; so that the Mosquitos might be induced to abandon their claim on a fair consideration, and thus the complicated question of the British Protectorate be altogether set at rest.

These observations undoubtedly come late, the whole of this subject having been frequently reviewed by Mr. Clayton and myself, and we both of us deeming that at the present time the Treaty in question did all that was necessary by settling a basis on which the canal could be constructed and protected.

I must add that such, I understand, is the opinion of the parties most concerned in the canal, and also the opinion of some leading statesmen of this country.

At the same time our intention in this matter is not to drive a bargain (indeed, we do not attempt this in the Convention proposed), but to come to the most friendly and satisfactory settlement of a debated question; that question being debated between us and a country with which we on every account desire to cultivate the most amicable relations.

I confess, therefore, that although I think it impossible for us now to give up the country claimed by the Mosquitos to the Nicaraguans on any pretext or in any manner whatsoever, or to abandon this people for any object, or under the aspect of any danger, to extermination, or to the hostility of any class of enemies; yet, on the other hand, I deem that the more we can do, consistently with our own credit and the safety of the Mosquitos, in furtherance of the contemplated ship-communication, and in demonstration of the fact that we neither claim nor seek exclusive benefits or control over the same, the better we shall manifest the feelings which I know your Lordship to entertain.

I ought not, moreover, to disguise from your Lordship that this question is becoming, the longer it remains in abeyance, the more intricate and perplexing; and that it contains within it, if not the seeds of actual war, the seeds of such hostile and angry excitement as render war always possible, and very often produce many of the evils of war, even when war itself is not produced.

It is with all these considerations before me that I venture to request your Lordship's permission, should the arrangement submitted to you meet in general with your approbation, to accompany it with such explanation, or add thereto such clause (should this be necessary for a settlement) as might, whilst preserving the perfect consistency of Her Majesty's Government and that honour and character which is to a State above all considerations, yet satisfy in a certain degree those suspicions which our present position, as to the Mosquitos, calls forth, and which it is the more desirable to banish since we really have no intention to profit by our connection in the manner that is supposed.

I am bound to add my opinion that if nothing is done, and even that if

nothing is done speedily, to set this business at rest, and bring it to an amicable conclusion, the tone of opinion on this side of the Atlantic will raise it ere long into very serious importance.

Inclosure in No. 21.

Extract from the Reports of Congress.

THE NICARAGUA QUESTION.

THE *Vice-President* laid before the Senate the following Message from the President of the United States :—

To the Senate of the United States :

We have received a resolution of the Senate of the 28th ultimo, requesting “ the President of the United States to cause to be laid before the Senate, (in open session, if, in his opinion, consistent with the public interest, otherwise in Executive session,) copies of all instructions and communications of the late Secretary of State to our late Chargé d’Affaires at Guatemala, and all despatches and communications from said Chargé d’Affaires to the Department of State, including any Conventions or Treaties he may have concluded with either of the States comprising the late Republic of Central America ; and also all correspondence between our said Chargé d’Affaires and the Governments or Representatives of either of said States ; and also all communications and instructions from the present Secretary of State to our late Chargé d’Affaires or our present Chargé d’Affaires to either of said States ; and of all despatches or communications from our Chargé d’Affaires to the Department of State, including any Conventions or Treaties he may have concluded with either of said States ; and also all correspondence between the Department of State and either of said Chargé d’Affaires touching the so-called kingdom of the Mosquitos and the right of way from the Atlantic through Lake Nicaragua.” The information called for by this resolution will be cheerfully communicated to the Senate as soon as it shall be found to be compatible with the public interest.

(Signed) Z. TAYLOR.

Washington, February 13, 1850.

Mr. King. I imagine, sir, from hearing the message read, that those papers relate to a subject which is still under discussion between this Government and the Government of Great Britain, and it is probable that a great many of these papers are of a character that ought not to be printed and made public until they have been examined by a committee.

The Vice-President. The Chair begs leave to state that there are no papers accompanying the message. It is a message declining to furnish them.

Mr. King. I was under the impression that they had been communicated ; but, sir, I submit to the Senate whether it would not be best that the Committee on Foreign Relations should have the subject before them. If they think so, I will move the reference of the message to the Committee on Foreign Relations, that they may determine whether it would be well, in the present state of things, when negotiations are going on, to have these papers thrown before the country, which might embarrass the proceedings.

Mr. Douglas. I hope it will be referred to that Committee, and that they will inquire whether the reports which we have seen in the newspapers are true, that more than six months ago Treaties were made and Conventions entered into between Nicaragua and this Government, by which extensive advantages were secured to the United States, and by which we had the right to make a canal across the Isthmus of Nicaragua, and to build up important posts to defend it. I wish it to be known whether these Treaties have been suppressed and withheld from the Senate. I hope the Committee will inquire whether these advantages are about to be surrendered, and we are to be voluntarily divested of them, and whether they are to be given up to another

country without compensation. I hope they will inquire into all these things; and it is for this reason that I hope the reference will be made.

Mr. Foote. I move that the message be laid on the table for the present, for the reason just stated. I will offer at another time certain resolutions, and will submit the motion that they be sent to the Committee on Foreign Relations, which resolutions shall embrace the subject referred to by the honourable Senator from Illinois.

The motion to lay the message on the table was agreed to.

No. 22.

Viscount Palmerston to Sir Henry Bulwer.

(Extract.)

Foreign Office, March 8, 1850.

I HAVE received your despatch of the 6th of January,* respecting the proceedings of Mr. Squier in regard to the Central American State of Honduras, and I have to acquaint you that Her Majesty's Government approve the language which you held to Mr. Clayton upon these matters.

No. 23.

Viscount Palmerston to Sir Henry Bulwer.

Sir,

Foreign Office, March 8, 1850.

WITH reference to your despatch of the 6th of January,† stating that Mr. Clayton has expressed to you his willingness to concur with Her Majesty's Government in instructing the agents of Great Britain and of the United States in Central America to abstain from acting in a spirit of rivalry, I transmit herewith, under flying-seal, two despatches which I have addressed to Mr. Chatfield and to Mr. Green in conformity with Mr. Clayton's proposal, and if he should concur in sending similar instructions to the United States' Agents in Central America, you will forward the inclosed despatches to their respective destinations.

I am, &c.
(Signed) PALMERSTON.

Inclosure 1 in No. 23.

Viscount Palmerston to Mr. Chatfield.

Sir,

Foreign Office, March 8, 1850.

IN my despatches of the 16th of November last and of the 28th ultimo, I transmitted to you copies of the correspondence which had passed between me and Mr. Abbot Laurence, the United States' Minister at this Court, respecting the views and intentions of Her Majesty's Government in regard to Central America, and respecting the occupation by Commander Paynter and the subsequent surrender by Admiral Hornby of Tigre Island in the Bay of Fonseca.

The contents of those despatches will have shown you clearly that there exists no intention on the part either of Great Britain or of the United States that the Agents of either of the two countries should endeavour to obtain for their respective Governments any peculiar or exclusive advantages whatever in the Republics of Central America, or that they should seek to establish the dominion either of Great Britain or of the United States in any part of Central America.

I have now to acquaint you that I have received a despatch from Sir Henry Bulwer, Her Majesty's Minister at Washington (a copy of which is sent herewith†), stating that Mr. Clayton, the Secretary of State of the

* No. 14.

† No. 15.

United States, has expressed to him his willingness to concur with Her Majesty's Government in instructing the respective Agents of the British and United States' Governments in Central America not only to abstain from placing themselves at the head of rival parties in that country, for the purpose of counteracting the supposed projects of each other, but on the contrary to lend each other mutual assistance, so far as may be practicable, in promoting the objects of general interest which their respective Governments may contemplate.

Her Majesty's Government have readily acquiesced in this proposal, and I have accordingly to instruct you to act in conformity with the views pointed out in Sir Henry Bulwer's despatch, and in the correspondence above referred to; and you will take every opportunity of cooperating with the Agents of the United States in order to place the relations of the two countries, in regard to the affairs of Central America, upon a footing of cordial friendship.

I am, &c.

(Signed) PALMERSTON.

Inclosure 2 in No. 23.

Viscount Palmerston to Mr. Green.

Sir,

Foreign Office, March 8, 1850.

IN my despatches of the 16th of November last and of the 8th instant, I transmitted to you copies of the correspondence which had passed between me and Mr. Abbot Laurence, the United States' Minister at this Court, respecting the views and intentions of Her Majesty's Government in regard to Central America, and respecting the occupation by Commander Paynter, and the subsequent surrender by Admiral Hornby of Tigre Island, in the Bay of Fonseca.

The contents of those despatches will have shown you clearly that there exists no intention on the part either of Great Britain or of the United States, that the Agents of either of the two countries should endeavour to obtain for their respective Governments any peculiar or exclusive advantages whatever in the Republics of Central America, or that they should seek to establish the dominion either of Great Britain or of the United States in any part of Central America.

I have now to acquaint you, that I have received a despatch from Sir Henry Bulwer, Her Majesty's Minister at Washington (a copy of which is sent herewith*), stating that Mr. Clayton, the Secretary of State of the United States, has expressed to him his willingness to concur with Her Majesty's Government in instructing the respective Agents of the British and United States' Governments in Central America, not only to abstain from placing themselves at the head of rival parties in that country, for the purpose of counteracting the supposed projects of each other, but on the contrary to lend each other mutual assistance, as far as this may be practicable, in promoting the objects of general interest which their respective Governments may contemplate.

Her Majesty's Government have readily acquiesced in this proposal; and I have accordingly to instruct you to act in conformity with the views pointed out in Sir H. Bulwer's despatch, and in the correspondence above referred to; and you will take every opportunity of cooperating with the Agents of the United States, in order to place the relations of the two countries, in regard to the affairs of Central America, upon a footing of cordial friendship.

I am, &c.

(Signed) PALMERSTON.

No. 24.

Viscount Palmerston to Sir Henry Bulwer.

Sir,

Foreign Office, March 8, 1850.

I HAVE received your despatch of the 3rd ultimo,* in which you state the reasons which had induced you to enter with the American Secretary of State into a full consideration of the questions connected with the proposed plan for establishing a communication between the Atlantic and Pacific Oceans, by a Ship-Canal, by way of the River San Juan de Nicaragua and the Lakes of Nicaragua and Managua; and you inclose the draft of a Convention on this subject which has been agreed upon between you and Mr. Clayton, subject to the approval of Her Majesty's Government.

I have to acquaint you that Her Majesty's Government entirely approve of the course which you have pursued in this important affair. You are therefore authorized to sign, on the part of Her Majesty, the Convention of which the draft is inclosed in your despatch above mentioned; and in order to enable you to do so, I transmit to you a full-power, which the Queen has been pleased to grant to you under the Great Seal, constituting you her Plenipotentiary for this negotiation, or for any other negotiation with the United States that may arise during your mission.

I have also to instruct you to deliver to the American Plenipotentiary, at the time of the signature of the Convention, a note stating that you have received the express order of your Government to declare, with reference to the engagement taken by my letter to Mr. Laurence dated the 13th of November last, a copy of which was inclosed in my despatch to Mr. Crampton of the same date, that the British Government has no intention to make use of the protection which Great Britain affords to the people of Mosquito, for the purpose of doing, under cover of that protection, any of the things the intention to do which is disclaimed in the letter to Mr. Laurence above referred to.

The exchange of the ratifications of the Convention may be fixed to take place as soon as possible, either at Washington or at London, as may be deemed most convenient by you and Mr. Clayton.

After the Convention shall have been signed and ratified, Her Majesty's Government will be happy to concert with the Government of the United States as to the mode and form in which the engagement contained in Article VI of the draft of Convention shall be carried into effect; whether by Treaties with other Powers, comprising stipulations in harmony with those contained in the proposed Convention between Great Britain and the United States, or by Treaties of Accession. If Treaties of Accession should be adopted, the Convention should be annexed to each of such Treaties, accompanied by an engagement to adopt the principles and stipulations therein recorded, so far as they may be applicable to the acceding Power.

I am, &c.
(Signed) PALMERSTON.

No. 25.

Viscount Palmerston to Sir Henry Bulwer.

Sir,

Foreign Office, March 8, 1850.

WITH reference to my preceding despatch of this date, conveying to you the instructions of Her Majesty's Government to sign the Convention with the United States relating to the communication across the Isthmus of Nicaragua, of which a draft was inclosed in your despatch of the 3rd ultimo, I have further to state to you, that as soon as you shall report that the Senate of the United

* No. 19.

States has authorized the President to ratify that Convention, the Queen's ratification will be prepared, and will be sent to you, if the exchange of the ratifications be fixed to take place at Washington.

I am, &c.
(Signed) PALMERSTON.

No. 26.

Sir Henry Bulwer to Viscount Palmerston.—(Received March 19.)

(Extract.)

Washington, March 2, 1850.

I TOOK a recent occasion of asking Mr. Clayton what he desired me to say to your Lordship respecting the proceedings of Mr. Squier, and the sort of Treaty taking Tigre Island under the protection of the United States, made by that gentleman.

Mr. Clayton replied, that the United States' Government had certainly not approved of the conduct of Mr. Squier, since he had made the Convention in question without having received any instructions that could authorize such a step; and had, moreover, declared it to be valid and in force without having previously referred it to the sanction or approval of the Government which employed him. He added, that the Commodore commanding the Honduras Station had been applied to by Mr. Squier to support his proceedings, but had altogether declined doing so, on the ground that he could see nothing either in his own or Mr. Squier's instructions to justify him in such a course. With respect to the Treaty itself, the United States' Government, added Mr. Clayton, had no intention to adopt or accept it, if he (Mr. Clayton) could come, as he hoped, to a good understanding with Great Britain as to the general policy to be pursued in Central America; but that of course he could not bind himself against pursuing any policy he might deem desirable, if the negotiations, which he was anxious to see happily concluded, should not be brought to a favourable termination.

No. 27.

Sir Henry Bulwer to Viscount Palmerston.—(Received March 19.)

(Extract.)

Washington, March 2, 1850.

I BEG to inform your Lordship that Mr. Clayton asked me the other day whether Mr. Chatfield had really made a Treaty with the Republic of Costa Rica, taking that Republic under British protection, since such a course would be contrary to the principles which your Lordship had stated on one occasion to Mr. Laurence, and the fact which he understood Mr. Laurence to convey, viz., that your Lordship had refused to accept the Protectorate of Costa Rica when it was offered to you.

I told Mr. Clayton that I did not believe, from the opinions on such subjects which I had heard your Lordship express, that you could have authorized Mr. Chatfield to make any Treaty placing the Republic of Costa Rica under the protection of Her Majesty.

No. 28.

Viscount Palmerston to Sir Henry Bulwer.

(Extract.)

Foreign Office, March 22, 1850.

WITH reference to your despatch of the 2nd instant,* reporting the answer returned by you to Mr. Clayton's inquiry, whether it was true that Mr. Chatfield had made a Treaty with Costa Rica, taking that Republic under British protection, I have to acquaint you that Her Majesty's Government

entirely approve the language held, and the assurance given by you to Mr. Clayton upon that occasion; and I have to authorize you to state to Mr. Clayton that the British Government has not concluded any Treaty or arrangement with Costa Rica for taking that State under British protection, and that the British Government has no intention whatever of doing so.

The language which I have, from the first, held to the agent from Costa Rica is, that Her Majesty's Government most sincerely wishes to see Costa Rica prosperous, happy, and independent, but have no desire whatever to interfere in any way in the affairs of that Republic.

No. 29.

Sir Henry Bulwer to Viscount Palmerston.—(Received April 16.)

My Lord,

Washington, March 31, 1850.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 8th instant,* inclosing two despatches, to be forwarded to Mr. Chatfield, Her Majesty's Agent and Consul-General at Guatemala, and to Mr. Green, Acting British Consul-General at Greytown, respecting the policy to be pursued by those gentlemen in Central America, provided that the United States' Government are willing to send similar instructions to its Agents in that part of the world; and I inclose to your Lordship a copy of a note which I have addressed on this subject to Mr. Clayton, who has informed me, verbally, that in two or three days he shall be able to show me the despatches he means to forward to Mr. Squier, who, I futhermore understand, will not long remain at his present post.

I have, &c.
(Signed) H. L. BULWER

Inclosure in No. 29.

Sir Henry Bulwer to Mr. Clayton.

Sir,

British Legation, March 28, 1850.

I COMMUNICATED to Lord Palmerston, on the 6th of January last, the willingness which you then expressed to send, in conjunction with Her Majesty's Government, such instructions to the respective Agents of Great Britain and the United States in Central America, as would clearly explain to those Agents that neither Great Britain nor the United States entertained any idea of acquiring peculiar or exclusive advantages for themselves or their citizens in that part of the world, or of obtaining any addition to their respective power and dominion therein, so that the aforesaid Agents might fully understand that it was their duty to lend each other mutual assistance in the transaction of the business with which their several Governments might charge them, instead of entering into a state of idle rivalry, exceedingly prejudicial to the transaction of such business, and altogether out of place when it proceeds from the attempt to counteract projects which have no real existence.

I now transmit to you, inclosed, the copy of a communication from Lord Palmerston to Mr. Chatfield, Her Majesty's Agent and Consul-General at Guatemala, and also another to Mr. Green, Her Majesty's Acting Consul-General at Greytown, which have been sent to me by his Lordship, with instructions to forward the same to their destination, provided the views they express correspond with the instructions which you yourself are prepared to send to your own Agents in Central America.

It gives to me great pleasure to make to you the above communication.

You know that I have always considered it the object of my mission not merely to continue a good understanding between the two States, but to make their friendly relations correspond with the kindred ties which bind them together.

The great objects of both are the maintenance of peace, the cultivation of

trade, the extension of civilization. Their mutual glory and prosperity are combined in one policy, which to be pursued most advantageously must be pursued in common. It would be well that this conviction should prevail everywhere, but it is especially desirable that it should prevail amongst those who represent us in such States as are perpetually torn by their own divisions, and in which the example of reason, moderation, and concord in the pursuit of useful objects, would be as honourable to our national character as profitable to our commercial interests.

Hoping that in some small degree we may both be able to contribute to a result so creditable to ourselves and so useful to the countries which we serve, I avail, &c.

(Signed) H. L. BULWER.

No. 30.

Sir Henry Bulwer to Viscount Palmerston.—(Received April 16.)

My Lord,

Washington, March 31, 1850.

I HAVE had the honour of receiving your Lordship's despatch of the 8th instant,* and have communicated the contents thereof to Mr. Clayton, who has stated to me that he entertains a strong hope that the President will, during the next week, authorize him to sign the Convention which your Lordship has given me authority to conclude.

I have, &c.
(Signed) H. L. BULWER.

No. 31.

Sir Henry Bulwer to Viscount Palmerston.—(Received April 16.)

My Lord,

Washington, March 31, 1850.

IT will become necessary, if the United States' Government agree to the Convention your Lordship has authorized me to conclude with it, to alter the Treaty made by Mr. Squier with the Republic of Nicaragua; and it would also perhaps be advisable, and at all events is deemed by Mr. Clayton very advisable, that Great Britain should make a Treaty with Nicaragua, similar to that which will in such case be made by the United States.

Already the Nicaraguan Chargé d'Affaires has been told to apply for powers to conclude a new Treaty with this State, and Mr. Clayton has wished me to ascertain whether your Lordship would allow me to conclude with the Nicaraguan Agent referred to, a Treaty similar to that which the United States itself agrees to, if the said Agent should receive powers for such a contingency, and the arrangements between Nicaragua and the United States should be such as your Lordship could adopt for Great Britain.

I have, &c.
(Signed) H. L. BULWER.

No. 32.

Sir Henry Bulwer to Viscount Palmerston.—(Received April 16.)

(Extract.)

Washington, March 31, 1850.

WITH reference to my previous despatch of this date,† I should mention that I have learnt from a source which leaves me no room to doubt of the accuracy of my information, that Mr. Clayton, on receiving a despatch from Mr. Laurence, inclosing one from your Lordship, relative to the temporary occupation of Tigre Island, sent the Treaty of Mr. Squier with the State of

* No. 24.

† No. 31.

Nicaragua to the Senate—a fact of which he never informed me, though I think, after what had passed, he should have done so.

This conduct is the more surprising, since I had every reason to believe, from what Mr. Clayton had told me, that the aforesaid Treaty would not and could not in its present form be laid before Congress.

It appears, however, that the Secretary of State would persist, notwithstanding all I told him to the contrary, in considering your Lordship's note to Mr. Laurence a declaration that the British Government would seize and occupy, and claim dominion over any parts of Central America that it thought proper, and that consequently your Lordship would not agree to the great principle of the Treaty which was sent home to be submitted to you, or give me such instructions as would enable me to carry it out.

I think there is fair ground for complaint against Mr. Clayton in this particular ; but I take it as the better principle to avoid complaints as to past conduct, when a friendly feeling in the future can remedy the mischief of previous error.

I have not therefore made any reproaches to Mr. Clayton on account of the inconvenience which he has doubtless placed in the way of our negotiation by communicating Mr. Squier's Treaty to the Senate previous to ascertaining fully your Lordship's views, since I found that the expression of those views as it has now reached me has dispelled the erroneous ideas as to English policy which the Government here for a moment entertained.

Moreover, as Mr. Squier's Treaty is as yet only in the hands of the Secret Committee of Foreign Affairs in the Senate, and not publicly known to Congress, it is by no means difficult to make alterations in it ; and I have reason to think that the United States' Government is disposed to make such alterations therein as may be necessary to prevent its clashing with the more important Convention which may be concluded with Great Britain. Upon the whole, I am inclined to think I shall be able to announce to your Lordship by the next packet that as far as Mr. Clayton and the United States' Government are concerned, the business in question is settled.

No. 33.

Viscount Palmerston to Sir Henry Bulwer.

Sir,

Foreign Office, May 10, 1850.

I HAVE received your despatch of the 28th of March last,* inclosing a copy of a letter which you had addressed to Mr. Clayton, the American Secretary of State, upon the occasion of your communicating to him copies of the instructions which I have addressed to Mr. Chatfield and to Mr. Green respecting the policy which Her Majesty's Government intend to pursue with regard to Central America. And I have to state to you that Her Majesty's Government entirely approve of your letter to Mr. Clayton upon that subject.

I am, &c.

(Signed) PALMERSTON.

No. 34.

Viscount Palmerston to Sir Henry Bulwer.

Sir,

Foreign Office, May 10, 1850.

I HAVE received your despatch of the 31st of March,† stating that Mr. Clayton has inquired whether Her Majesty's Government might be disposed to authorize you to sign, with the Nicaraguan Chargé d'Affaires at Washington, a Treaty similar to that which the United States' Government proposes to conclude with Nicaragua, if the arrangements between the United States and Nicaragua should be such as Her Majesty's Government could adopt.

I have to state to you in reply, that Her Majesty's Government are not disinclined to treat with the Government of Nicaragua, but Her Majesty's

* No. 29.

† No. 31.

Government could not conclude a Treaty with that State which should have the effect of admitting any pretensions of Nicaragua in regard to Greytown, or which should settle in favour of Nicaragua, and without due respect for the just rights of Costa Rica, any of the questions in dispute between Nicaragua and Costa Rica.

I am, &c.
(Signed) PALMERSTON.

No. 35.

Sir Henry Bulwer to Viscount Palmerston.—(Received May 14.)

My Lord,

Washington, April 28, 1850.

I HAVE now the honour of inclosing to your Lordship the copy of the Treaty which I concluded definitively with Mr. Clayton on the 19th of this month, and for signing which that gentleman received full powers from the President of the United States.

I have, &c.
(Signed) H. L. BULWER.

Inclosure in No. 35.

Convention between Her Majesty and the United States of America relative to the Establishment of a Communication by Ship-Canal between the Atlantic and Pacific Oceans.

HER Britannic Majesty and the United States of America being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a Convention their views and intentions with reference to any means of communication by Ship-Canal which may be constructed between the Atlantic and Pacific Oceans, by way of the River San Juan de Nicaragua, and either or both of the Lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean:

Her Britannic Majesty has conferred full powers on the Right Honourable Sir Henry Lytton Bulwer, a Member of Her Majesty's Most Honourable Privy Council, Knight Commander of the Most Honourable Order of the Bath, and Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty to the United States; and the President of the United States, on John M. Clayton, Secretary of State of the United States, for the aforesaid purpose; and the said Plenipotentiaries having exchanged their full powers, which were found to be in proper form, have agreed to the following Articles:—

ART. I. The Governments of Great Britain and the United States hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said Ship-Canal; agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have, to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, or of assuming or exercising dominion over the same. Nor will Great Britain or the United States take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the subjects or citizens of the one, any rights or advantages in regard to commerce or navigation through the said canal, which shall not be offered, on the same terms, to the subjects or citizens of the other.

II. Vessels of Great Britain or the United States traversing the said canal shall, in case of war between the Contracting Parties, be exempted from

blockade, detention, or capture by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said canal as may hereafter be found expedient to establish.

III. In order to secure the construction of the said canal, the Contracting Parties engage that if any such canal shall be undertaken upon fair and equitable terms by any parties having the authority of the Local Government or Governments through whose territory the same may pass, then the persons employed in making the said canal, and their property used or to be used for that object, shall be protected, from the commencement of the said canal to its completion, by the Governments of Great Britain and the United States, from unjust detention, confiscation, seizure, or any violence whatsoever.

IV. The Contracting Parties will use whatever influence they respectively exercise with any State, States, or Governments possessing, or claiming to possess, any jurisdiction or right over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such States or Governments to facilitate the construction of the said canal by every means in their power; and furthermore, Great Britain and the United States agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the said canal.

V. The Contracting Parties further engage that when the said canal shall have been completed, they will protect it from interruption, seizure, or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may for ever be open and free, and the capital invested therein secure. Nevertheless, the Governments of Great Britain and the United States, in according their protection to the construction of the said canal, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally, and may be withdrawn by both Governments, or either Government, if both Governments or either Government should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this Convention; either by making unfair discriminations in favour of the commerce of one of the Contracting Parties over the commerce of the other, or by imposing oppressive exactions, or unreasonable tolls upon passengers, vessels, goods, wares, merchandise, or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee, without first giving six months' notice to the other.

VI. The Contracting Parties in this Convention engage to invite every State with which both or either have friendly intercourse, to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other States may share in the honour and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated; and the Contracting Parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this Convention; namely, that of constructing and maintaining the said canal as a ship-communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such treaty stipulations; and should any differences arise as to right or property over the territory through which the said canal shall pass, between the States or Governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the Governments of Great Britain and the United States will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance existing between the Contracting Parties.

VII. It being desirable that no time should be unnecessarily lost in commencing and constructing the said canal, the Governments of Great Britain and the United States determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such

principles as accord with the spirit and intention of this Convention; and if any person or company should already have, with any State through which the proposed Ship-Canal may pass, a contract for the construction of such a canal as that specified in this Convention, to the stipulations of which contract neither of the Contracting Parties in this Convention have any just cause to object, and the said persons or company shall, moreover, have made preparations and expended time, money, and trouble on the faith of such contract, it is hereby agreed, that such persons or company shall have a priority of claim over every other person, persons, or company, to the protection of the Governments of Great Britain and the United States, and be allowed a year, from the date of the exchange of the ratifications of this Convention, for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the proposed enterprise, then the Governments of Great Britain and the United States shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question.

VIII. The Governments of Great Britain and the United States having not only desired, in entering into this Convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection by treaty stipulations to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America; and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panamá. In granting, however, their joint protection to any such canals or railways as are by this Article specified, it is always understood by Great Britain and the United States, that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the subjects and citizens of Great Britain and the United States on equal terms, shall also be open on like terms to the subjects and citizens of every other State which is willing to grant thereto such protection as Great Britain and the United States engage to afford.

IX. The ratifications of this Convention shall be exchanged at Washington within six months from this day, or sooner if possible.

In faith whereof we, the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our seals.

Done at Washington, the nineteenth day of April, Anno Domini one thousand eight hundred and fifty.

(Signed)

HENRY LYTTON BULWER.
JOHN M. CLAYTON.

No. 36.

Sir Henry Bulwer to Viscount Palmerston.—(Received May 14.)

(Extract.)

Washington, April 28, 1850.

IN my preceding despatch of this day,* I have inclosed your Lordship the Convention concluded between myself and Mr. Clayton on the 19th of this month.

Your Lordship will see some slight differences between the Treaty actually signed, and the project of a Treaty originally sketched out by Mr. Clayton and myself. But I have been guided by what I understood to be the general views, intentions, and wishes of Her Majesty's Government, and have taken upon myself in the present instance, as in the former one, such limited responsibility as the circumstances seemed to require.

Such a course was indeed necessary, because if the Convention is to pass

* No. 35.

through the Senate this year, no further time can be lost in laying it before that body, and also because the Treaty made by Mr. Squier with Nicaragua being already in the Senators' hands, it is important that the Convention with us, which must necessarily modify that of Mr. Squier, should also be in their possession.

Your Lordship will perceive by the notes which passed between myself and Mr. Clayton, copies of which are herewith inclosed, that I consider it a subject of regret that the one Treaty should have been submitted to the Senate before the other, and that the two should not have been both presented together, and in such a state as to have avoided all possibility of their clashing. I am indeed bound to observe, that I did understand from Mr. Clayton, when I first entered into negotiations with him, that such would be the case, and the President's Message followed close upon this understanding. I learnt, therefore, with surprise, that the Treaty concluded on the 3rd of September last with the State of Nicaragua, had been communicated to the Senate.

But I have deemed it useless to express more than regret at this incident, since Mr. Clayton, in his communication to me, gives the assurance that "should the Senate confirm the Treaty with Great Britain, it will take care that any other Treaty also confirmed by it shall be in conformity therewith, and that it is unnecessary for him to say that nothing in one of these Treaties could be ratified which would be inconsistent with the spirit and intention of the stipulations contained in the other."

Inclosure 1 in No. 36.

Mr. Clayton to Sir Henry Bulwer.

Sir,

Washington, April 19, 1850.

I HAVE now the honour to submit to you, in a shape in which I am authorized by the President to sign the same, the project of the Convention which originated in our mutual conferences and consultations shortly after your arrival in this country.

I presume, from the information you recently gave me as to the instructions you had received from Her Britannic Majesty's Government, that you are duly authorized, and will be ready to concur in the said Convention; in which case a time can be at once fixed for our common signature.

I have further to observe that, at a period when, in consequence of circumstances not now necessary to be stated, it was supposed that no such arrangement would be entered into between our respective countries as that which we are now about to conclude, the Treaty negotiated by this Government with the State of Nicaragua on the 3rd day of September last (a copy of which, so far as it relates to the proposed Ship-Canal, was transmitted by Mr. Laurence to Lord Palmerston on the 22nd day of November last) was submitted to the Senate for advice in regard to its ratification.

This Treaty is now in the possession of the senators, who, as the President's Constitutional advisers in the exercise of the Treaty-making power, form a coordinate branch of the Government; and as no Treaty can be made without their advice and consent. that which you and I have originated must be submitted to them in connection with the Treaty above referred to. Whatever the Senate may decide in reference to either of these Treaties, the President will not, I am persuaded, have occasion to controvert. He does not doubt, should the Senate confirm the Treaty with Great Britain, that it will take care that any other Treaty also confirmed by it shall be in conformity therewith; and it is unnecessary for me to say, that nothing in one of these Treaties could be ratified which would be inconsistent with the spirit and intention of the stipulations contained in the other.

The friendly relations between the two greatest commercial nations of the world will, I trust, be strengthened by this new bond of union between them; and I anticipate the happiest results from their honourable and peaceful alliance for the purpose of diffusing the blessings of commerce and civilization.

It is exceedingly gratifying to me that a new Treaty, likely to be so

important in its results, should have been the consequence of our friendly intercourse; and I cannot terminate this negotiation without those mutual congratulations which the occasion warrants, and the sincere expression of that esteem and regard which have been created by the assistance you have given me in bringing our labours to a happy conclusion.

Accept, &c.
(Signed) J. M. CLAYTON.

Inclosure 2 in No. 36.

Sir Henry Bulwer to Mr. Clayton.

Sir, *British Legation, Washington, April 19, 1850.*

I HAVE had the honour of receiving your communication of the 19th instant, inclosing the project of a Convention between the two Governments of Great Britain and the United States, which originated in our mutual conferences and consultations shortly after my arrival in this country, and which you now state to be in such a shape as enables you to sign the same with the full approbation of the President. I need not observe, after reading through the project in question as now transmitted to me, that I have to remark therein some slight deviations from the original text of the project which I submitted to Viscount Palmerston's approval, but as it is important that in the present situation of this affair no further time should be lost in bringing it to a conclusion, and as the alterations I thus allude to are merely verbal, and in accordance with the general spirit of my instructions, and have been adopted by us conjointly for various reasons, which have appeared expedient for the furtherance of those objects which our Treaty specifies, I am prepared to sign the said Treaty on behalf of Her Britannic Majesty's Government, and will do so at such time as you may appoint for that purpose.

In regard to the other portions of your communication, I might perhaps be justified in expressing some regret that any Treaty connected with the subject engaging our attention should have occupied the consideration of the Senate before the Convention we are about to sign had been submitted to it. But such is my profound conviction of the great judgment and ability which illustrate the distinguished body before which these Treaties will be brought, as well as my confidence in the superintending wisdom of the President, in whom resides the power of ratification, that I do not in the least fear but that the Convention which we sign will receive every due consideration; and that if it should be finally approved of by the one and ratified by the other, nothing will be approved of or ratified in any other Treaty contrary to the spirit and intentions manifest in our engagements.

Permit me to add, that I entirely sympathise with you in the belief that the bonds of friendship which unite our two great and kindred nations will be honourably strengthened by a Convention which has for its object the construction and protection of a great work, which we intend should confer equal benefits on all the nations of the earth.

Indeed, the whole Treaty which we are now about to conclude manifests a spirit of conciliation and peace, of generous and unselfish zeal in the universal interests of commerce and civilization that will, I am persuaded, do credit to our respective countries, and afford no unworthy example to the world.

It is, I can assure you, a subject of sincere gratification to me, that in negotiating a measure which so completely represents the views of Her Majesty's Government I had the advantage of being associated with you; and although I claim but a small share in the merit of bringing this important business to a happy termination, I shall always remember with pride and pleasure the negotiation in which we have been engaged together, were it only on account of the expressions of esteem and regard which you honour me, and which faithfully represent the feelings of sincere friendship and high consideration which I avail myself of this opportunity to offer to you.

(Signed) H. L. BULWER.

No. 37.

Sir Henry Bulwer to Viscount Palmeston.—(Received May 14.)

(Extract.)

Washington, April 28, 1850.

IN my previous despatch of this day* I have informed your Lordship of my having concluded a Treaty with Mr. Clayton respecting the construction of a ship-communication between the two oceans of the Atlantic and Pacific, and I have there stated to your Lordship that there are some slight differences between the original project transmitted home on the 3rd of February and the Treaty now concluded.

I have thought it better to explain the nature of these changes, and my reasons for adopting them, in a separate despatch; and I shall do so, rather, according to the manner and time in which they were made, than according to the place in the Convention in which they occur.

The first, therefore, I shall refer to is in Article VI, to which are added the words: "And should any differences arise as to right or property over the territory through which the said canal shall pass between the States or Governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the Governments of Great Britain and the United States will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance which exist between the contracting parties."

This addition, in reconsidering the matter, was deemed both by myself and Mr. Clayton an advantage to the Treaty, and a sort of guarantee against future unfriendly disputes between the two Governments as to the subject referred to.

The second addition agreed to is in Article VII, to which has been added; "And if any persons or company should already have, with any State through which the proposed Ship-Canal may pass, a contract for the construction of such a canal as that specified in the Convention; to the stipulations of which contract neither of the Contracting Parties in this Convention have any just cause to object; and the said persons or company shall moreover have made preparations and expended time, money, and trouble on the faith of such contract, it is hereby agreed, that such persons or company shall have a priority of claim over every other person, persons, or company, to the protection of the Governments of Great Britain and the United States, and be allowed a year from the date of the exchange of the ratifications of this Convention for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking, it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the proposed enterprise, then the Governments of Great Britain and the United States shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question."

I should here state to your Lordship that, when the Treaty was placed under the notice of the Chairman of the Committee on Foreign Relations in the Senate, a gentleman of great weight and of the more importance since he belongs to the dominant party in the Chamber of which he is a member, considered that it would only be fair that the two Governments should give an open and avowed preference by name to an American Company which had first conceived and taken steps to carry out the proposed undertaking. This, I objected to; but I deemed there could be no objection to giving to any company, under certain fair conditions such as are specified, the preference that was sought, although those conditions applied to a company that was American. In this manner a sort of compromise was effected.

The third alteration adopted is in Article VIII, the whole of which Article is remodelled.

This alteration, I must say, was the effect of the joint opinion of Mr. Clayton and myself, both thinking that the Article, as amended, was better and more clear, referring especially to two lines of communication which seem the most likely to be adopted, and securing thereby a considerable support to the Con-

vention in general, many persons being interested in the Panamá and Tehuantepec projects.

The only other change which it is worth while remarking upon occurs the first in the body of the Treaty, but was the last mooted or adopted. Your Lordship will perceive it by casting your eye over Article I, in which a passage is inserted between the words "Central America," which close the second line in the page down to "nor will Great Britain or the United States take advantage of any," &c., which occurs in the third line from the bottom of the said page, some few words having been left out to admit of the aforesaid passage. The manner in which this change was effected was as follows:—

It struck me that the declaration or note mentioned by your Lordship bound our Government as to its protection over the Mosquitos, but did not bind the United States' Government as to its protection over such other States, even Nicaragua, as it might hereafter form an especial alliance with. Moreover, the pledge that we would not do covertly what we had declared we would not do directly, seemed to me a pledge that it would be more suitable and becoming that both parties should take than that one alone should take.

With these views instead of presenting the note, I embodied in the Treaty the substance of the declaration given by your Lordship to Mr. Laurence, constructing that declaration so as to apply to any Government or people we do or may protect, and also to any Government or people that the United States' Government do or may protect. Some discussion took place on this matter, but finally it was so arranged.

As the case now stands it is clearly understood that Her Majesty's Government holds by its own opinions already expressed as to Mosquito, and that the United States does not depart from its opinions also already expressed as to the same subject; but the main question of the canal being settled on an amicable basis, and the future relations of the United States and Great Britain being regulated in all other parts of Central America, the discussion of this difference, which has lost its great practical importance, is avoided in an arrangement meant to be as much as possible of a perfectly friendly character.

I need not say that should your Lordship wish to make any further statement as to the views of Her Majesty's Government with respect to the protectorate of Mosquito, that statement can still be made; nothing in the present Convention is affirmed thereupon, but nothing is abandoned.

I trust that after this statement your Lordship will approve of the course I have pursued.

There are various small and verbal differences between the original project and Treaty which I have not enumerated, because they leave the general sense the same, and have only been adopted to express that sense more clearly. The word "fortify" is inserted between "occupy and colonise" in the second line from the bottom of the page in Article I, but this word had been used in your Lordship's note to Mr. Laurence, and only imposes in that place an obligation which had already been agreed to and stated elsewhere. The word "blockade" is inserted before the words "detention or capture" in Article II, at the request of several influential persons, but only signifies what detention and capture had already expressed.

No. 38.

Sir Henry Bulwer to Viscount Palmerston.—(Received May 14.)

(Extract.)

Washington, April 28, 1850.

YOU will best judge if anything, and if anything what, is to be done as to the remaining difference between Nicaragua and Mosquito, on which the Government of Her Majesty and that of the United States still entertain opposite opinions, although those opinions are, by our Treaty, restrained or withdrawn from the necessity of being carried out into any act of hostility.

The Treaty made for the construction of the canal, abandoning nothing contrary to our honour, secures some advantages, and takes away, as I have already said, all cause for immediate or disagreeable dispute between Great

Britain and this country. However, the whole subject is not disposed of without going somewhat further.

Now, as I consider the matter, the case stands thus.

We have no longer any interest in maintaining the Mosquitos where they are, nor our protection over them in that locality. But still, though the protectorate in question is of no avail to us, we could neither withdraw it, nor alter the condition of things on which it rests, if pressed to do so in any disagreeable or hostile way, or even if a conflicting claim was put up directly by the Power with which we were discussing the matter in direct opposition to that claim for which we have long since declared ourselves. On the other hand, we might, perhaps, terminate and settle this point, if it were considered and discussed between ourselves and a friendly Power on general and friendly grounds.

If the notion I thus entertain is correct, it would follow, that should our Treaty and the Treaty between this country and Nicaragua be settled without any assertion of the right of Nicaragua over the Mosquito territory, we might then, in amicable arrangement with the United States, arrive at some plan for withdrawing the Mosquitos from the vicinity of the canal, and thereby remove at once all grounds of future discord.

I remember that your Lordship did not seem altogether adverse to a plan frequently put forward of purchasing the Indian title. Something of this kind might, perhaps, be settled. A sort of recognition of the Mosquitos, in a particular district, might also be obtained from the Central American States, on certain conditions, and the nature of their position be in this way benefited by the sphere of their pretensions being contracted.

An agreement might be come to, as to the land thus vacated, favourable to the purposes of commerce and the construction of the canal; and conditions imposed as to the nature of the government therein to be established. The Mosquitos being withdrawn, the cession of the disputed territory to any particular Central American State comes, by the terms of our Treaty, Article VI, one of friendly adjustment between us and the United States.

In short, the ground seems in this way clear. I shall, however, be glad to know what are your Lordship's views as to these matters, and if they coincide in the main with mine, or differ as to any essential point, since it might be well, now that we are occupied with this affair, to settle it completely.

No. 39.

Viscount Palmerston to Sir Henry Bulwer.

Sir,

Foreign Office, May 24, 1850.

HER Majesty's Government have had under their consideration your despatch of the 28th of April,* stating the alterations which have been made in the project of Convention respecting the construction of a Ship-Canal between the Atlantic and Pacific Oceans, which was inclosed in your despatch of the 3rd February,† and the reasons which have induced you to adopt those alterations which were afterwards made therein by the Convention which you signed with Mr. Clayton on the 19th April; and I have to state to you that Her Majesty's Government entirely approve the alterations to which you have consented, and in agreeing to which you have acted with judgment and discretion, and entirely in conformity with the views and intentions of Her Majesty's Government.

I am, &c.

(Signed) PALMERSTON.

* No 37.

† No. 19.

Viscount Palmerston to Sir Henry Bulwer.

(Extract.)

Foreign Office, May 28, 1850.

I HAVE received your despatch of the 28th of April,* inclosing a copy of the Convention which you concluded with Mr. Clayton on the 19th of April, upon the subject of the establishment of a communication between the Atlantic and Pacific Oceans by a Ship-Canal by way of the River San Juan de Nicaragua, and either or both of the Lakes of Nicaragua or Managua. I have to state to you that Her Majesty's Government entirely approve the Convention which you have signed with Mr. Clayton upon this subject, and I have at the same time to inform you that the Queen's ratification will be prepared and will be sent out to you without delay, in order to be exchanged against that of the President of the United States.

With respect to the mention which is made in the Convention of the Kingdom of Mosquito, the British Crown having for nearly two centuries been under an honourable engagement to protect the people of Mosquito, representations were made to Her Majesty's Government in 1844, that the people of that country were in danger of suffering from the aggressions of some of the neighbouring Spanish States, one of which had already, then recently, occupied by force the Port of San Juan, which had always been considered as part of the Mosquito territory. In consequence of those representations, Her Majesty's Government at that time sent out a British Agent to examine into and to report upon the state of affairs in Mosquito, and to assist the King of the Mosquitos in organizing his internal arrangements. Further investigation having convinced Her Majesty's Government that Greytown or Port St. John did rightfully belong to the Mosquito territory, and the Government of Nicaragua not yielding to the repeated applications on the part of Her Majesty's Government to restore that port to the Mosquitos, means were at length employed by Her Majesty's Government by which the restoration of that port to the Mosquitos was accomplished, and from that time, namely, from January 1848, the port has continued to be held by the Mosquitos under the protection of Great Britain.

But Her Majesty's Government feel that the present state of things in regard to the Mosquito territory, and especially with regard to the port of Greytown, is in many respects inconvenient. The British Government is bound in honour to protect the Mosquitos, but Her Majesty's Government are of opinion that the protection of Great Britain might be afforded to that nation as effectually in a different way, and without any direct interference of any Agent of the British Government in the internal affairs of that country.

Her Majesty's Government feel that the present state of things in regard to the Mosquito territory, and especially with regard to the port of Greytown, is in many respects inconvenient. The British Government is bound in honour to protect the Mosquitos, but Her Majesty's Government are of opinion that the protection of Great Britain might be afforded to that nation as effectually in a different way, and without any direct interference of any Agent of the British Government in the internal affairs of that country.

Her Majesty's Government would propose that Treaties should be concluded with the States of Honduras, Nicaragua, and Costa Rica, which border upon the Mosquito territory, for the purpose of fixing and defining the boundaries between those States respectively and Mosquito; and Her Majesty's Government would be glad to have the cooperation of the Government of the United States in the making of such an arrangement. If such boundaries were once fixed and established by such Treaties, the duties of protection would have been usefully performed.

But in the forming of such Treaties it would obviously become necessary to make some different arrangement in regard to Greytown. As that port would be one of the outlets of the proposed interoceanic communication, it would be necessary for the purposes of commerce that it should be under the control of some efficient and organized Government; and it is required by the

spirit and meaning of the Convention which you have signed with Mr. Clayton, that Greytown should not, either directly or indirectly, be under the control either of Great Britain or of the United States.

But in the present condition of the Mosquito nation, the chief of that country could not establish any sufficiently well-organized system of administration in Greytown without the assistance of the direct and detailed intervention of British agency in that town.

In order to obviate these inconveniences, Her Majesty's Government would propose that the Treaty to be concluded between the Mosquitos and Costa Rica, should so fix the boundary between those States as to include Greytown, and a sufficient district to the north of Greytown, within the limits of Costa Rica; some suitable and adequate compensation being made to the Mosquitos for this cession on their part.

Such an arrangement would secure the establishment in Greytown of a well-organized Government wholly independent both of Great Britain and of the United States; and as the relations between Costa Rica and the Mosquitos have been always friendly, the close contact of the two would not be likely to be productive of any future differences between them.

By such an arrangement the two ends of the sea-to-sea communication would be in the keeping of the two Central American States the nearest geographically to each, and the most interested respectively in rendering the communication as useful as possible for the general purposes of commerce.

No. 41.

Sir Henry Bulwer to Viscount Palmerston.—(Received June 4.)

My Lord,

Washington, May 20, 1850.

I CALLED on Mr. Clayton on the 10th of this month, in consequence of a statement in a New York journal, to the effect that Mr. Squier had taken possession of Tigre Island and hoisted the American flag thereupon.

Mr. Clayton informed me that he had received no information of such a fact, and did not believe in the report. He confirmed to me the assurance he had previously given as to his disapproval of Mr. Squier's Treaty with Honduras, and agreed with me that the provisions of the Treaty, as recently signed, would prohibit the United States from taking possession of the island in question.

I have, &c.

(Signed) H. L. BULWER.

No. 42.

Viscount Palmerston to Sir Henry Bulwer.

Sir,

Foreign Office, June 8, 1850.

I HAVE to instruct you to inform the Secretary of State of the United States that you will be directed to make a declaration at the time of the exchange of the ratifications of the Convention relative to the establishment of the proposed canal across the Isthmus of Nicaragua, that Her Majesty's Government do not understand the engagements of that Convention as applying to Her Majesty's Settlement at Honduras, or to its dependencies. A draft of such declaration is inclosed.

Her Majesty's ratification of the Convention will be prepared and forwarded to you for exchange, as soon as I shall have heard from you that the Convention has been confirmed by the Senate of the United States.

I am, &c.

(Signed) PALMERSTON.

Inclosure in No. 42.

Draft of Declaration.

IN proceeding to the exchange of the ratifications of the Convention signed at Washington on the 19th of April, 1850, between Her Britannic Majesty and the United States of America, relative to the establishment of a communication by Ship-Canal between the Atlantic and Pacific Oceans, the Undersigned, Her Britannic Majesty's Plenipotentiary, has received Her Majesty's instructions to declare that Her Majesty does not understand the engagements of that Convention to apply to Her Majesty's Settlement at Honduras, or to its dependencies.

Her Majesty's ratification of the said Convention is exchanged under the explicit declaration above mentioned.

Done at Washington, the day of , 1850.

No. 43.

Sir Henry Bulwer to Viscount Palmerston.—(Received June 11.)

My Lord,

Washington, May 26, 1850.

I HAVE the honour to inform you that the Treaty, of which I transmitted your Lordship a copy in my despatch of the 28th ultimo,* was approved of by a considerable majority in the Senate on the 22nd instant, and that Mr. Clayton has informed me that the President has given it his approval. I am, therefore, only awaiting your Lordship's orders as to an exchange of ratifications.

I have, &c.

(Signed) H. L. BULWER.

No. 44.

Viscount Palmerston to Sir Henry Bulwer.

Sir,

Foreign Office, June 14, 1850.

I TRANSMIT to you the Queen's ratification under the Great Seal, of the Convention relative to the Nicaragua Ship-Canal, which was signed by you and Mr. Clayton on the 19th of April last; and I am to desire that you will exchange the same against a similar instrument, ratified by the President of the United States.

Before however you proceed to the exchange of the ratifications of the Convention, you will deliver to the American Secretary of State the declaration of which a draft is inclosed in my despatch of the 8th instant, stating that Her Majesty's Government do not understand the engagements of the Convention as applying to the British Settlement at Honduras, or to its dependencies. I do not anticipate that the Government of the United States will raise any objection to receiving and assenting to that declaration, but if they should decline to receive and assent to it, you will not proceed to the exchange of the ratifications until you shall receive the further instructions of Her Majesty's Government.

I transmit a certificate, to be signed by you and Mr. Clayton on the exchange of the ratifications. You will return it to me at the same time that you send home the ratification of the United States.

I am, &c.

(Signed) PALMERSTON.

Inclosure in No. 44.

Draft of Certificate.

THE Undersigned having met together for the purpose of exchanging the ratifications of a Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of America, relative to the establishment of a communication by Ship-Canal between the Atlantic and Pacific Oceans, concluded and signed at Washington on the 19th day of April, 1850, and the respective ratifications of the said instrument having been carefully compared, and found to be exactly conformable to each other, the said exchange took place this day in the usual form.

In witness whereof they have signed the present certificate of exchange, and have affixed thereto their respective seals.

Done at Washington, the day of , 1850.

No. 45.

Sir Henry Bulwer to Viscount Palmerston.—(Received June 17.)

(Extract.)

Washington, June 3, 1850.

I THINK it right to observe, that whenever Mr. Clayton has spoken to me on the subject of an arrangement for the purchase of a part of the territory claimed by the Mosquito King, he has always laid down as a matter of course that no such arrangement could be considered as in any way affecting private rights.

No. 46.

Sir Henry Bulwer to Viscount Palmerston.—(Received July 17.)

My Lord,

Washington, June 28, 1850.

MR. CLAYTON informed me yesterday that he had just received a despatch from Mr. Squier, from which it would appear that that gentleman had taken possession of Tigre Island.

Mr. Clayton expressed himself much annoyed at this occurrence, saying that he could not but conclude that his previous despatches to Mr. Squier had miscarried. He said that he had therefore sent a special messenger to him, with orders that he should deliver the despatches of which he was the bearer into Mr. Squier's own hands.

These despatches informed Mr. Squier that he had already been told that his Treaty with Honduras was wholly disapproved of, and that the United States' Government did not mean to take possession of Tigre Island under any pretext whatever.

Mr. Clayton said that Mr. Squier would likewise be informed of the Treaty which had been concluded between Great Britain and the United States, and that he would probably return home without delay.

I have, &c.
(Signed) H. L. BULWER.

No. 47.

Sir Henry Bulwer to Viscount Palmerston.—(Received July 17.)

(Extract.)

Washington, July 1, 1850.

I RECEIVED your Lordship's despatch of the 28th ultimo, with reference to the Convention of the 19th of April, and the proposal of ceding a portion of the Mosquito territory, including Greytown, to the Government of Costa Rica,

with the suggestion that in such case the Nicaraguans might receive compensation elsewhere in further territorial arrangements between them and the Costa Ricans.

I have reason to believe that Nicaragua would not at this time consent to your Lordship's proposal.

No. 48.

Sir Henry Bulwer to Viscount Palmeston.—(Received July 17.)

(Extract.)

Washington, July 1, 1850.

MR. WHITE, the managing director of the Nicaraguan Canal Company, has written me a letter, which I have answered. The copy of the letter and answer are here inclosed.

Inclosure 1 in No. 48.

Mr. White to Sir Henry Bulwer.

Sir,

New York, June 27, 1850.

HEREWITH I send you the "public notice" given the 15th day of June last by J. M. Daly, who claims to be the collector of the port of San Juan de Nicaragua. This paper, you will remember, was shown to you when you were in New York, and a copy promised to be sent to you. I am unable to find, after a careful examination of this paper, any duty imposed on vessels that may enter the port of San Juan with a view to proceed up the river to Lake Nicaragua. Two steam-boats belonging to the Atlantic and Pacific Canal Company will very shortly reach San Juan for this purpose; and if the merchants to whom the entire right of collecting and establishing duties has been assigned, shall attempt to make and enforce a tariff to suit the case, our agents will not be disposed to regard its requirements. Indeed, I cannot conceive how they can do so without treating with contempt the well-known wishes of our Government. Gladly would we delay sending our boats, were it not that we must send engineers to commence the survey of the route, or forfeit our charter by a failure to send them.

Can you make any suggestion with reference to this question of duties, which would avoid the difficulty suggested? Anything which we can do in the matter without compromising our Government or ourselves, we shall not hesitate in doing. And we trust we may not be placed in a position that will demand of us either to commit ourselves to the right of these assignees to levy duties, or practically to deny such right by a positive refusal to pay them. To proceed as we have proceeded we think best, viz., neither to admit or deny any political rights in San Juan de Nicaragua, except those established by the Senate of Nicaragua. The ratification of the Treaty will clearly obviate the the present difficulty. But until this is done what are we to do?

Very respectfully, &c.

(Signed) J. L. WHITE.

Inclosure 2 in No. 48.

Sir Henry Bulwer to Mr. White.

My dear Sir,

Washington, June 29, 1850.

THE position of things at Greytown is as follows: This place is protected by Great Britain for the King of Mosquitos, who, under our protection, has established custom regulations there. Whether these customs have been rented or not, does not, as it appears to me, much signify. By the Treaty of the 19th

April, Her Majesty's Government engages to use its best endeavours to cause Greytown to be made a free port. No doubt, therefore, Greytown will be made a free port; but a sufficient space of time must be allowed to permit Her Majesty's Government to receive the ratification of the said Treaty, and to send instructions founded thereupon to Her Majesty's Agents in the Mosquito territory. Any attempt in the meantime to infringe by force the regulations at present imposed at the port in question by Mosquito authority, and under British sanction, would of course be most injudicious, and have very possibly the most fatal consequences. I am convinced, therefore, from the discretion which you have always hitherto displayed, that you will take such measures as are best calculated to avoid any just causes of difference between your Company and the Mosquito authorities, and between Great Britain and the United States. You must remember that Her Majesty's Agent at Greytown is entirely independent of me, and that, consequently, I can give him no instructions as to his conduct. But I will explain to him the friendly relations between this country and Great Britain, and the provisions of the Treaty which have resulted from them. For the same reason that I can give Mr. Green no instructions, I can make no suggestion to you; but the facts I have stated will, I think, furnish you with grounds for the line of conduct which it will be most convenient for you and your brother to adopt.

I am, &c.
(Signed) H. L. BULWER.

No. 49.

Sir Henry Bulwer to Viscount Palmerston.—(Received July 22.)

My Lord,

Washington, July 8, 1850.

I HAVE the honour to inclose to your Lordship the correspondence which passed between Mr. Clayton and me, after delivering the declaration inclosed in your Lordship's despatch of the 8th ultimo, respecting Her Majesty's Settlement at Honduras and its dependencies.

Your Lordship will perceive that the Secretary of State fully assents to the fact, that the rights of Her Majesty over the British Settlement at Honduras and its dependencies remain untouched by the Convention of the 19th April, and I have therefore exchanged a copy of that Treaty, ratified and signed by Her Majesty, for a copy of the same, ratified and signed by the President of the United States.

I inclose to your Lordship the certificate of the ratification signed by Mr. Clayton and myself. The ratification itself will be forwarded by our regular messenger on this day week.

I have, &c.
(Signed) H. L. BULWER.

Inclosure 1 in No. 49.

Mr. Clayton to Sir Henry Bulwer.

Sir,

Department of State, Washington, July 4, 1850.

I HAVE received the declaration you were instructed by your Government to make to me respecting Honduras and its dependencies, a copy of which is herewith subjoined.

The language of Article I of the Convention concluded on the 19th day of April last, between the United States and Great Britain, describing the country not to be occupied, &c., by either of the parties, was, as you know, twice approved by your Government, and it was neither understood by them, nor by either of us (the negotiators), to include the British Settlement in Honduras, commonly called British Honduras, as distinct from the State of Honduras, nor the small islands in the neighbourhood of that Settlement, which may be known as its dependencies. To this Settlement and these islands the Treaty we negotiated was not intended by either of us to apply. The title to them it is

now, and has been my intention throughout the whole negotiation, to leave, as the Treaty leaves it, without denying, affirming, or in any way meddling with the same, just as it stood previously.

The Chairman of the Committee on Foreign Relations of the Senate, the Hon. William R. King, informs me that "the Senate perfectly understood that the Treaty did not include British Honduras." It was intended to apply to and does include all the Central American States of Guatemala, Honduras, San Salvador, Nicaragua, and Costa Rica, with their just limits and proper dependencies.

The difficulty that now arises seems to spring from the use in our Convention of the term "Central America," which we adopted because Viscount Palmerston had assented to it, and used it as the proper term, we naturally supposing that on this account it would be satisfactory to your Government; but if your Government now intend to delay the exchange of ratifications until we shall have fixed the precise limits of Central America, we must defer further action until we have further information on both sides, to which at present we have no means of resort, and which it is certain we could not obtain before the term fixed for exchanging the ratifications would expire. It is not to be imagined that such is the object of your Government, for not only would this course delay, but defeat the Convention.

Of course no alteration could be made in the Convention as it now stands, without referring the same to the Senate: and I do not understand you as having authority to propose any alteration. But on some future occasion a conventional Article, clearly stating what are the limits of Central America, might become advisable.

There is another matter still more important, which the stipulations of the Convention direct that we shall settle, but which you have no instructions now to determine; and I desire you to invite the attention of your Government to it—"the distance from the two ends of the canal" within which "vessels of the United States or Great Britain, traversing the said canal, shall, in case of war between the Contracting Parties, be exempted from blockade, detention, or capture by either of the belligerents."

The subject is one of deep interest, and I shall be happy to receive the views of your Government in regard to it, as soon as it may be convenient for them to decide upon it.

I avail, &c.
(Signed) J. M. CLAYTON.

Inclosure 2 in No. 49.

Sir Henry Bulwer to Mr. Clayton.

Sir,

British Legation, July 4, 1850.

I UNDERSTAND the purport of your answer to the declaration, dated the 29th of June, which I was instructed to make to you on behalf of Her Majesty's Government, to be, that you do not deem yourself called upon to mark out at this time the exact limits of Her Majesty's Settlement at Honduras, nor of the different Central American States, nor to define what are or what are not the dependencies of the said Settlement; but that you fully recognize that it was not the intention of our negotiation to embrace in the Treaty of 19th April whatever is Her Majesty's Settlement at Honduras, nor whatever are the dependencies of that Settlement; and that Her Majesty's title thereto subsequent to the said Treaty will remain just as it was prior to that Treaty, without undergoing any alteration whatever in consequence thereof.

It was not the intention of Her Majesty's Government to make the declaration I submitted to you more than a simple affirmation of this fact, and consequently I deem myself now authorized to exchange Her Majesty's ratification of the Treaty of 19th April for that of the President of the United States.

I shall take the earliest opportunity of communicating to Her Majesty's Government the desire which you express to have determined the distance from the two ends of the canal within which vessels of the United States or Great Britain traversing the said Canal shall, in case of war between the Contracting

Parties be exempted from blockade, detention, or capture by either of the belligerents, and I will duly inform Her Majesty's Government of the interest which you take in this question.

I avail, &c.
(Signed) H. L. BULWER.

No. 50.

Sir Henry Bulwer to Viscount Palmerston.—(Received April 22.)

My Lord,

Washington, July 8, 1850.

YOUR Lordship will perceive, from Mr. Clayton's note to me of the 4th instant, that he is anxious to have, as soon as possible, your Lordship's ideas with respect to the limits which are to be assigned to that distance from the two free ports at either side of the said canal which is to be considered free from the acts of belligerent Powers.

The Chairman of the Committee on Foreign Relations in the Senate is very anxious that this distance should be very considerable.

Mr. Clayton is of opinion that it is more for the interests of Great Britain and the United States that the neutral space in question should not extend beyond twenty to fifty miles, as a general arrangement; but that Great Britain and the United States should, by a separate agreement, give the same a much wider range, as far as they themselves are concerned. He adds, however, that he is most especially desirous to know your Lordship's views, since whatever is for the advantage of Great Britain in these matters will be for the advantage of the United States.

I have, &c.
(Signed) H. L. BULWER.

No. 51.

M. Molina to Viscount Palmerston.—(Received August 6.)

My Lord,

116, Gloucester Terrace, Hyde Park, August 5, 1850.

I HAVE to state that having duly reported to my Government the offer that your Lordship had the kindness to make verbally to me, that Her Majesty's Government were disposed to use their good offices conjointly with the Cabinet of Washington, in order to bring about the settlement of the boundary differences actually existing between Costa Rica and Nicaragua, I have received special instructions enjoining me to express to your Lordship the deep gratitude of my country for the interest Her Majesty's Government have taken in its behalf; and to declare likewise, in the manner which may be considered most binding, that the Republic of Costa Rica does unreservedly accept the high mediation of Great Britain and the United States of America, for the purpose aforesaid, with a perfect confidence in the justice and wisdom of their councils.

It is, therefore, my pleasing duty to assure your Lordship that Costa Rica, fully concurring in the magnanimous and philanthropic views of both Powers, set forth in their Convention signed in Washington on the 19th of April of the present year, is willing to submit the question of her rights over all the territories in dispute between Nicaragua and herself, to the combined mediation of Great Britain and the United States, and to hold their joint decision as final and irrevocable, provided Nicaragua should have previously placed herself under a similar obligation.

I beg at the same time to state that, even in a contrary supposition, Costa Rica will nevertheless be prepared to listen to, and disposed to adopt, any plans of arrangement which the Cabinets of St. James's and Washington, by common consent, may suggest, in the way of mutual renunciations, exchanges, or indemnities, if necessary, or to concur in any opinion they may express, with a view to a final settlement of the boundary differences in question, and to the facilitating the construction of a ship-canal.

I have likewise to acquaint your Lordship that I am authorized, if it is

deemed desirable, to sign any Treaty or engagement in reference to the declarations above stated.

As to the mode of carrying out the proposed mediation or arbitration, perhaps your Lordship will allow me to suggest that as I have full powers from my Government for the purpose, the Government of Nicaragua should be invited to send to their Minister here equal powers, when the affair could be settled with the cooperation of your Lordship and that of the American Ambassador to this Court, to whom I address, under this same date, a letter identical with the present communication to your Lordship. On behalf of Costa Rica, however, I shall be prepared to adhere to any other plan that may be preferred for the above purpose by the mediating Powers.

In the meantime, intelligence having been received of the formation of a confederacy between Nicaragua, Salvador, and Honduras, with objects hostile to the peace and independence of Guatemala and Costa Rica, I have to express the confident trust entertained by Costa Rica, that the influence of the British and American Governments will be used to dissuade Nicaragua or any other of the Central American States, from any violent attempts or acts of aggression against her.

It is most satisfactory for me to state that the packet which has just arrived with the mails from Costa Rica up to the end of last June, brings intelligence of the continued tranquillity which Costa Rica has for so many years enjoyed; and that the Government of the Republic has become still more consolidated in the affections and prosperity of the people, whose material progress would be injuriously interrupted should they be called upon to abandon industrious pursuits, in order to prepare a resistance to any attacks with which an external and misguided hostility might menace them.

This opportunity enables me to renew, &c.

• (Signed)

F. MOLINA.

No. 52.

Sir Henry Bulwer to Viscount Palmerston.—(Received August 13.)

My Lord,

Washington, July 28, 1850.

I HAVE the honour to inclose to your Lordship the ratification, by the President of the United States, of the Treaty concluded at Washington between Mr. Clayton and myself on the 19th of April last.

I have, &c.

(Signed)

H. L. BULWER.

No. 53.

Sir Henry Bulwer to Viscount Palmerston.—(Received August 27.)

(Extract.)

Washington, August 6, 1850.

THE present appears to me the best moment for calling your Lordship's attention to a question which a portion of Mr. Clayton's communication* suggests.

The term "Central America" is used by Mr. Clayton and myself in our Convention.

The usual acceptation given to it would simply embrace the five States, viz., Honduras, Guatemala, Salvador, Nicaragua, and Costa Rica, which formerly constituted the Central American Republic.

I think it might be advisable that the two Governments came to a clear understanding as to whether they mean that the five States in question, with their just boundaries, whatever those boundaries may be, are meant by the term "Central America."

No. 54.

Viscount Palmerston to Sir Henry Bulwer.

(Extract.)

Foreign Office, August 30, 1850.

WITH reference to that part of my despatch of the 28th of May last which states that Her Majesty's Government would be glad to have the cooperation of the United States' Government, with a view to effect the conclusion of Treaties with the States of Honduras, Nicaragua, and Costa Rica, for the purpose of fixing and defining the boundaries between those States respectively and Mosquito, I inclose herewith, for your information, a copy of a letter* which I have received from M. Molina, the Envoy from Costa Rica at this Court, stating that he is directed by his Government to state to Her Majesty's Government that Costa Rica is willing to submit the question of boundaries between herself and Nicaragua to the joint mediation or arbitration of Great Britain and the United States; and will also bind herself to abide by the decision which the two Governments may concur in giving with respect to that question, provided the State of Nicaragua places herself under a similar obligation.

And I have to instruct you to submit the proposition of the Government of Costa Rica to the United States' Government; and at the same time to ask them whether they concur in the plan of arrangement proposed in M. Molina's letter; and if so, whether they will undertake it to propose to the Government of Nicaragua.

No. 55.

Viscount Palmerston to Sir Henry Bulwer.

(Extract.)

Foreign Office, September 11, 1850.

I HAVE received your despatch of the 6th ultimo, and with reference to the question to which you call my attention, as to the meaning of the term "Central America," I have to observe that it will be sufficient for the purposes of the Convention to construe the term "Central America" as comprising those States which formed the Republic formerly known by that name, that is to say, Guatemala, Costa Rica, Nicaragua, Salvador, and Honduras; and it is not necessary that their boundaries should be specially defined.

No. 56.

Viscount Palmerston to Sir Henry Bulwer.

(Extract.)

Foreign Office, October 4, 1850.

WITH reference to your despatch of the 8th of July last, requesting to be informed of the views of Her Majesty's Government as to the arrangement which remains to be agreed upon between Great Britain and the United States with regard to the limits within which vessels traversing the Ship Canal between the Atlantic and Pacific Oceans are to enjoy exemption from blockade, detention, or capture, I have to acquaint you that the Lords Commissioners of the Admiralty consider that a segment of a circle of twenty-five nautical miles radius, drawn to seaward from each end of the canal, as from a centre, should be the limits within which vessels should enjoy the exemption in question.

No. 57.

Sir Henry Bulwer to Viscount Palmerston.—(Received October 14.)

My Lord,

Washington, September 29, 1850.

I HAVE the honour to inclose, herewith, a copy of the communication by which I have called Mr. Webster's attention to the proposition from Costa Rica, contained in your Lordship's despatch of the 30th of August.

In this communication I have stated in writing what I had previously stated in conversation, because it seemed to me possible that it might otherwise pass in some degree from Mr. Webster's recollection.

I have, &c.

(Signed)

H. L. BULWER.

Inclosure in No. 57.

Sir Henry Bulwer to Mr. Webster.

My dear Sir,

Washington, September 27, 1850.

I INFORMED you in our recent conversations on the subject, that Viscount Palmerston in referring to his despatch of the 28th of May last, of which I in a private note of the 16th August last communicated to you the contents, also informed me that the Envoy from Costa Rica, in London, had stated to him, Lord Palmerston, that he was directed by his Government to state to Her Majesty's Government that Costa Rica was willing to submit the question of boundaries between herself and Nicaragua to the joint mediation or arbitration of Great Britain and the United States; and would also bind herself to abide by the decision which the two Governments might concur in giving, with respect to the question referred to, provided that the State of Nicaragua would place itself under a similar obligation.

Lord Palmerston has furthermore instructed me to submit the proposition of the Government of Costa Rica to the United States' Government, and at the same time to ask you whether it would concur in the plan of arrangement proposed by the Envoy from Costa Rica, and if so, whether it would undertake to propose it to the Government of Nicaragua. As a verbal communication may not always leave behind it a full impression of what passed, and especially when your mind must be so much occupied by many other and important affairs, I have thought it better to repeat in writing all that I now state; and I likewise inclose for your perusal a copy of a letter* addressed by M. Molina, the Envoy from Costa Rica, to Her Majesty's Secretary of State for Foreign Affairs.

I would take this opportunity of again urging upon your consideration the propriety of obtaining from the State of Nicaragua full powers to arrange all its differences with respect to the Mosquitos and Costa Rica, through the friendly arbitration or mediation of Great Britain and the United States.

I have, &c.

(Signed)

H. L. BULWER.

No. 58.

Sir Henry Bulwer to Viscount Palmerston.—(Received October 14.)

(Extract.)

Washington, September 29, 1850.

IN informing Mr. Webster of the contents of your Lordship's despatch of the 30th of August, and of its inclosure from M. Molina, relative to the willingness of Costa Rica to submit the question of boundaries between that State and Nicaragua, to the joint arbitration of Great Britain and the United States, I at the same time spoke to the Secretary of State upon the general question of settling as speedily as possible, by the joint mediation of Great Britain and the United States, the whole of the territorial differences between

Mosquito, Nicaragua, and Costa Rica, and asked whether he could now give me his views generally on this matter.

Mr. Webster said that the subject was a difficult one, and that it would be necessary to know what the Nicaraguans would consent to, before the United States' Government, which was in some degree compromised with respect to their claims, by the expression of its opinions, could point out any plan which it could engage to aid in carrying out, or which it could recommend as likely to lead to a satisfactory adjustment. He added, however, that he himself entirely agreed in the spirit of the project which your Lordship has suggested, viz., that of placing Greytown in the hands of the Costa Ricans, and giving up a portion of the contested territory between Nicaragua and Costa Rica, to the Nicaraguans. He furthermore said, that he should recommend the Senate to do nothing further for the present with respect to Mr. Squier's Treaty; that he understood that his predecessor had invited Nicaragua to send some agent here with full powers to make such alterations in that Treaty as the United States might require; that if such agent came, he (Mr. Webster) should judge from him what it would be possible to do with the Nicaraguan Government; that if such agent did not come, he should not employ Mr. Squier again, but select some capable person to send to Nicaragua through whose means he should endeavour to obtain the consent of that State to some reasonable plan of adjusting all pending questions concerning it.

I suggested that the best and simplest way would be, to get Nicaragua to give the United States full powers to settle all such matters in any way which the Government of Great Britain and the Government of the United States might agree to; and that then as the Government of Costa Rica had declared that it would consent to any arrangement which the said two Governments might sanction, and that Her Majesty's Government could in a great degree answer for that of the King of the Mosquitos, we might clear away a great number of useless delays and difficulties, and settle between us and at once some general scheme including the occupation of Greytown, and the restoration of friendly relations between Costa Rica and Nicaragua.

Mr. Webster seemed to consider that this idea was a good one.

No. 59.

Sir Henry Bulwer to Viscount Palmerston.—(Received October 14.)

My Lord,

Washington, September 29, 1850.

I INCLOSE your Lordship a private memorandum, which I have written at Mr. Webster's request, respecting some alterations which appeared to me requisite in the Treaty which Mr. Squier some time since made with the Nicaraguan Republic, in order that such Treaty should not clash with the spirit and intentions of the Treaty between Great Britain and the United States of April last, nor interfere in any way with the joint action and friendly understanding between the two Governments as to the great object of constructing a Ship Canal between the Atlantic and Pacific.

These remarks were in some degree hastily written, but they seem to me to touch the principal points at issue, and as the consideration of the matter is now deferred till next session, there will be time for me to have the benefit of your Lordship's further instructions thereupon.

I inclose your Lordship also the only copy I have been able to procure of the Treaty referred to.

I have, &c.
(Signed) H. L. BULWER.

Inclosure 1 in No. 59.

Sir Henry Bulwer to Mr. Webster.

My dear Sir,

Washington, September 27, 1850.

I INCLOSE you a memorandum which I think contains the principal points to which it is desirable to draw your attention ; and I wish you expressly to bear in mind, that the thing we have to look to is the final settlement of all these disputed questions by the best and fairest arrangement that can be made, according to the views and engagements of each particular party, and the common advantage of all. I ought to add, that I clearly understood, when I first signed the project of the Treaty that was subsequently shaped into form by the Convention of the 19th of April, that I did so in the full understanding that Mr. Squier's Treaty was not to be presented, in such case, in its present shape, and, in fact, President Taylor did at that time refuse to lay the said Treaty before the Senate. When it was subsequently communicated to this body, Mr. Clayton told me that this had taken place because he believed that the project to which he had subscribed would not be approved of by our respective Governments, and could not consequently be realized ; and finally, when the said project was approved of by the Governments of Great Britain and the United States, I did not consent to sign it as a Convention until Mr. Clayton assured me in writing, and with reference to Mr. Squier's Treaty, that the President would not ratify any other Treaty of which the spirit and instructions were contrary to that which we were signing.

I have, &c.
(Signed) H. L. BULWER.

Inclosure 2 in No. 59.

Portions of Mr. Squier's Treaty with Nicaragua which seem to require amendment.

IN the second section of Article XXXV there is a passage beginning after the word "proceed," and going down to the end of said section to the word "Article." In this passage the United States recognize "the rights of sovereignty and property which the State of Nicaragua possesses in and over the line of said Canal" (meaning the Canal which it is proposed to construct across Central America by the Lakes of Nicaragua and the River San Juan, a part of which has been solemnly declared by Great Britain to belong to another Power, and been placed by a British force in the possession of that Power). And the United States then "guarantee the entire neutrality of the same, so long as it shall remain under the control of the citizens of the United States."

Thus there are in the passage two paragraphs, the one concerning the recognition of the rights of Nicaragua over the line of the said Canal ; the other, providing it should be under the control of American citizens. With respect to this latter point, when the Treaty with Nicaragua was negotiated by Mr. Squier, the contract that had been made with Nicaragua by the Company which had engaged to construct the aforesaid Canal stipulated (Art. IX) that two-thirds of the shares of such Canal should be held by citizens of the United States, and that, consequently, the said Canal should be under the control of such citizens. The Treaty of Mr. Squier applied to this state of circumstances ; but since that time the American Company just alluded to has found reason to have the Article which confined the Company to being an American Company struck out from its contract with Nicaragua ;* and two gentlemen belonging to this Company are now actually gone to England in order to invite European capitalists to subscribe to the undertaking. It seems therefore advisable, and indeed necessary, to withdraw the provision that "the Canal should remain under the control of citizens of the United States" from the Treaty between Nicaragua and the United States, as it has been withdrawn from the contract between Nicaragua and the Canal Company, or the Treaty and contract will not coincide, which it is evidently intended that they should do. As to the recognition of the right of

* The third amendment to said Charter annuls the whole of Article IX of which is question.

Nicaragua over the whole line of Canal, the objections which are to be made to it rest upon three or four grounds :

1. This recognition brings, as has been stated, the United States' Government into direct conflict with an opinion which Great Britain has expressed and acted upon with regard to a portion of the same line.

2. It is likely to prevent the construction of the contemplated Canal, by inspiring distrust in capitalists, who could only be induced to advance their money in such an enterprise, which will require so much time and capital to complete it, by the belief that no serious difference with regard to it exists between the two Powers most interested concerning it, namely, Great Britain and the United States.

3. Such recognition is, for these two above-mentioned reasons, in some degree in contradiction with the Treaty of 19th April, which was not made nor ratified when Mr. Squier negotiated his Treaty, but which has been made out and ratified since. Because the object of this Treaty, as expressly stated in the preamble, is to consolidate the relations of amity between the two Contracting Parties, and also, as is evident from the whole context of the Treaty itself, to further the construction of the said Canal as much as possible.

4. It may, by already pledging the United States in a specific way, exclude the exercise of their salutary influence with Nicaragua, for the purpose of arriving at some friendly arrangements with respect to the jurisdiction to be established over Greytown, an important point at the mouth of the River San Juan, now held by the Mosquitos, under the Protectorate of Great Britain ; and which Great Britain could not redeliver up to the Nicaraguans, but might, and would in some general scheme of compromise and settlement, get the Mosquitos to make over to some adjoining Central American State, such as Costa Rica.

5. This bare act of recognition (and the United States do not mean to carry their opinion further than the simple expression of such opinion) though it would greatly inflate the hopes and expectations of the Nicaraguans, and lead them to refuse accepting any reasonable mode of terminating their differences with respect to their territorial disputes by compromise, would not in reality advance them one jot nearer their object of obtaining any territory their right to which is now disputed.

For all these reasons it appears that the simple affirmation on the part of the Government of the United States, that it would do all in its power to settle in a friendly manner any differences Nicaragua may have with other States or people respecting its territory or boundaries, would not be exposed to the same objections ; and would, nevertheless, be just as servicable to the Nicaraguans as the clause as it now stands.

Another question to consider in relation to the Nicaraguan Treaty, arises from Article XXXV, section 4,* which decrees that the citizens of no other State shall enjoy the same privileges as the citizens of the United States, unless they made with Nicaragua Treaties similar to that made by the United States.

Now, if the United States make a Treaty with Nicaragua that Great Britain can fairly be asked to become a party to, there may be no objection to this provision ; but if it suits the United States to make a Treaty with Nicaragua, containing political opinions which it is impossible for Great Britain, consistently with her honour, to concur in, and that under these circumstances the subjects of Great Britain are not to enjoy the same privileges as the citizens of the United States over that portion of the Canal which lies within the control of Nicaragua ; it is perfectly clear that the spirit and intention of the Treaty of the 19th April are entirely defeated.

The Mosquitos may then put forward the same pretensions with respect to the recognition of their authority over the portion of the Canal which they claim as theirs by the States enjoying the benefits of the same, as the Nicaraguans put forward with respect to the recognition of their authority over the whole Canal.

* Sect. 4. "None of the rights, privileges, and immunities guaranteed to the United States and its citizens shall accrue to any other nation and its citizens, except such nation shall first enter into the same Treaty stipulations for, &c., which have been entered into by the United States, in terms the same with those employed in Sect. 2 of this Article."

Sect. 1. . . . "And it is further stipulated, that the right of way or transit across the territories of Nicaragua by any route or upon any mode of communication at present existing or which hereafter may be constructed, shall at all times be open and free to the Government and citizens of the United States for all purposes whatever, and no tolls, duties, or charges of any kind shall be imposed upon the transit in whole or part by such modes of communication, &c."

The very question will be brought into agitation which it has been intended to set at rest, and neither Great Britain nor the United States could agree to guarantee and protect the whole of the Canal, over the whole of which neither would be able to claim the full benefits.

The meaning of the Treaty of the 19th April is evident, viz., that Great Britain and the United States, without going into any of the questions of disputed territory or other political matters, agree to guarantee protection to a canal across the Central American States, each affording the same protection to the same, if the advantages of transit thereupon are offered to their subjects or citizens upon the same terms, or, in other words, upon the payment of the said tolls.

Mr. Clayton, seeing the incompatibility of the passage in the Treaty with Nicaragua, to which I have been referring, with the Treaty of the 19th April, since negotiated, suggested to substitute for the paragraph to which allusion has just been made, something like the following: "And it also agreed that all the rights, privileges, and immunities, with respect to the passage of ships, merchandise, and passengers on the said Canal granted by the first section of the preceding Article to the United States and their citizens, shall be granted to Great Britain and her subjects, or to the subjects and citizens of any other nation which shall enter into such Treaty stipulations for the defence and protection of the proposed Inter-oceanic Canal, as have been entered into between the United States and Great Britain."

This alteration may be worthy of consideration; and here concludes all notice that seems necessary of the special Treaty of Mr. Squier; it may, however, be added, that it seems in some degree questionable, whether it be advisable for the great Powers to make any Treaties at all with these small States in reference to railways or canals constructed through their country, and whether it would not be simpler and better to allow the companies constructing such canals or railways to make their own arrangements with the States through whose country the canals or railways may pass; and that then the great Powers willing to guarantee such enterprises, and who approve of the terms on which they are undertaken, and made open to their commerce, should guarantee the safety of the said canals or railways, and protect the said companies in the rights which they may have acquired from the States making the concession of such rights to them.

But, at all events, it is desirable, if the guaranteeing Powers make Treaties themselves with the States by which the concessions in question are made, that they should do so in such language and upon such conditions as all other Governments can be fairly called upon to adopt, so that the great routes of communication which it is the general object to establish, should be guarded by the common sentiment and interest, and rescued from the insecurity and instability which would inevitably attend them, if the arrangements made for their construction or protection bore evidence of the political bias and intention of any particular Government, and thus became intermingled with the jealousies and ambitions of rival nations.

Inclosure 3 in No. 59.

General Treaty of Amity, Navigation, and Commerce, between the United States of North America and the Republic of Nicaragua, September 3, 1849.

THE United States of North America and the Republic of Nicaragua, desiring to make lasting and firm the friendship and good understanding which happily exist between both nations, have resolved to fix, in a manner clear, distinct, and positive, the rules which shall in future be religiously observed between each other, by means of a Treaty, or General Convention of Peace and Friendship, Commerce and Navigation.

LA República de Nicaragua y los Estados Unidos del Norte America, deseando hacer firme y duradera la amistad y buena inteligencia que felizmente existen entre ambas naciones, han resuelto figar de una manera clara, distinta, y positiva, las reglas que en lo futuro han de observarse religiosamente entre una y otra por medio de un Tratado ó Convencion General de Paz y Amistad, Comercio y Navegacion.

For this desirable object, the President of the United States of America has conferred full powers on E. G. Squier, a citizen of the said States and their Chargé d'Affaires to Guatemala and Central America; and the President of the Republic of Nicaragua has conferred similar and equal powers upon Licenciado Señor Don Hermenegildo Zepeda; who, having exchanged their said full powers in due form, have agreed to the following Articles:—

ARTICLE I.

There shall be a perfect, firm, and inviolable peace and sincere friendship between the United States of America and the Republic of Nicaragua, in all the extent of their possessions and territories, and between their citizens, respectively, without distinction of persons or places.

ARTICLE II.

The United States of America and the Republic of Nicaragua, desiring to live in peace and harmony with all the nations of the earth, by means of a policy frank and equally friendly with all, engage mutually not to grant any particular favour to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional.

ARTICLE III.

The two High Contracting Parties, being likewise desirous of placing the commerce and navigation of their respective countries on the liberal basis of perfect equality and reciprocity, mutually agree that the citizens of each may frequent all the coasts and countries of the other, and reside therein, and shall have the power to purchase and hold lands and all kinds of real estate, and to engage in all kinds of trade, manufactures, and mining, upon the same terms with the native citizen; and shall enjoy all the privileges and concessions in these matters which are or may be made to the citizens of any country; and shall enjoy all the rights, privileges, and exemptions, in navigation, commerce, and manufactures,

Para este apetecible objeto el Presidente de la República de Nicaragua ha conferido plenos poderes al Señor Licenciado Don Hermenegildo Zepeda, y el Presidente de los Estados Unidos de America ha conferido semejantes é iguales poderes á E. G. Squier, ciudadano de dichos Estados y su encargado de negocios en Guatemala y Centro America; los cuales, despues de haber cangeado sus dichos plenos poderes en debida forma, han convenido en los Articulos siguientes:—

ARTICULO I.

Habrá una paz perfecta, firme é inviolable, y amistad sincera entre la República de Nicaragua y los Estados Unidos de America en toda la estension de sus posesiones y territorios, y entre sus ciudadanos respectivamente, sin distincion de personas ni lugares.

ARTICULO II.

La República de Nicaragua y los Estados Unidos de America, deseando vivir en paz y armonia con todas las naciones de la tierra por medio de una politica franca é igualmente amistosa con todas, se obligan mutuamente á no otorgar favores particulares á otras naciones con respecto á comercio y navegacion que no se hagan inmediatamente extensivos á la otra parte, quien gozará de los mismos libremente, si la concesion fuere hecha libremente, ú otorgando la misma compensacion, si la concesion fuere condicional.

ARTICULO III.

Las dos Altas Partes Contratantes, deseando tambien establecer el comercio y navegacion de sus respectivos países sobre las liberales bases de perfecta igual y reciprocidad, convienen mutuamente en que los ciudadanos de cada una podrán frecuentar las costas y territorios de la otra, residir en ellos, emprender cualquier clase de trafico y fabricas, explotar minas, comprar y poseer tierras y toda clase de bienes raices sujetos á los mismos derechos y obligaciones que los naturales del país, ó bajo los mismos privilegios que fueren concedido ó que se concedan á cualquier ciudadano ó ciudadanos de otras naciones, y gozarán de todos los derechos, privilegios, y escenciones con respecto á navegacion, comercio y fabrica de que

which native citizens do or shall enjoy, submitting themselves to the laws, decrees, and usages there established, to which native citizens are subjected. But it is understood that this Article does not include the coasting trade of either country, the regulation of which is reserved by the parties, respectively, according to their own separate laws.

ARTICLE IV.

They likewise agree, that whatever kind of produce, manufacture, or merchandize of any foreign country can be, from time to time, lawfully imported into the United States in their own vessels, may also be imported in vessels of the Republic of Nicaragua; and that no higher or other duties upon the tonnage of the vessel and her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other: and in like manner, that whatever kind of produce, manufactures, or merchandize of any foreign country can be from time to time lawfully imported into the Republic of Nicaragua in its own vessels, may be also imported in vessels of the United States; and that no higher or other duties upon the tonnage of the vessel and her cargo shall be levied or collected, whether the importation be made in vessels of the one country or of the other.

And they further agree, that whatever may be lawfully exported or re-exported from the one country in its own vessels to any foreign country, may in like manner be exported or reexported in the vessels of the other country; and the same bounties, duties, and drawbacks shall be allowed and collected, whether such exportation or re-exportation be made in vessels of the United States or of the Republic of Nicaragua.

ARTICLE V.

No higher or other duties shall be imposed on the importation into the United States of any articles the produce or manufactures of the Republic of Nicaragua, and no higher or other duties shall be imposed on the importation into the Republic of Nicaragua of any articles the produce or manufactures of the United States, than are or shall be payable on the like articles

gozan ó gozaren los ciudadanos naturales sometiendo á las leyes, decretos y usos establecidos á que están sujetos dichos ciudadanos. Pero debe entenderse que este Artículo no comprende el comercio de cabotaje de cada uno de los países, cuya regulacion queda reservada á las partes respectivamente, segun sus leyes propias y peculiares.

ARTICULO IV.

Igualmente conviene una y otra en que cualquiera especie de producciones, manufacturas ó mercaderías extranjeras que puedan ser en cualquier tiempo legalmente importadas en la República de Nicaragua en sus propios buques, puedan ser tambien importadas en buques de los Estados Unidos: y que no se impondrán ó cobrarán otros ó mas altos derechos sobre las toneladas del buque, ó por su cargamento, sea que la importacion se haga en buques del uno ú del otro país: y de la misma manera, cualquiera especie de producciones, manufacturas ó mercaderías extranjeras que puedan ser en cualquier tiempo legalmente importadas en los Estados Unidos en sus propios buques, puedan ser tambien importadas en los buques de la República de Nicaragua; y que no se impondrán otros ó mas altos derechos sobre las toneladas del buque ó por su cargamento, sea que la importacion se haga en buques del uno ú del otro país.

Convienen ademas, en que todo de que pueda ser legalmente esportado ó reesportado de uno de los dos países en sus propios buques para un país extranjero, pueda de la misma manera ser esportado ó reesportado en los buques del otro: y serán concedidos y cobrados iguales premios, derechos, y descuentos, sea que tal esportacion ó reesportacion se haga en los buques de la República de Nicaragua, ó en los de los Estados Unidos.

ARTICULO V.

No se impondrán otros ó mas altos derechos sobre la importacion en la República de Nicaragua de cualquiera artículos del producto natural ó manufacturado de los Estados Unidos, y no se impondrá otros ó mas altos derechos sobre la importacion en los Estados Unidos de cualesquiera artículos del producto natural ó manufacturado de la República de Nicaragua, que los que

being the produce or manufactures of any other foreign country; nor shall any higher or other duties or charges be imposed, in either of the two countries, on the exportation of any articles to the United States, or to the Republic of Nicaragua, respectively, than such as are payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed on the exportation or importation of any articles the produce or manufactures of the United States, or of the Republic of Nicaragua, to or from the territories of the United States, or to or from the territories of the Republic of Nicaragua, which shall not equally extend to all other nations.

ARTICLE VI.

In order to prevent the possibility of any misunderstanding, it is hereby declared that the stipulations contained in the three preceding Articles are, to their full extent, applicable to the vessels of the United States and their cargoes arriving in the ports of Nicaragua, and reciprocally to the vessels of the said Republic of Nicaragua and their cargoes arriving in the ports of the United States, whether they proceed from the ports of the country to which they respectively belong or from the ports of any other foreign country; and, in either case, no discriminating duty shall be imposed or collected in the ports of either country on said vessels or their cargoes, whether the same shall be of native or foreign produce or manufacture.

ARTICLE VII.

It is likewise agreed, that it shall be wholly free for all merchants, commanders of ships, and other citizens of both countries, to manage, by themselves or agents, their own business in all the ports and places subject to the jurisdiction of each other, as well with respect to the consignments and sale of their goods and merchandize, by wholesale or retail, as with respect to the loading, unloading, and sending off their ships; their being, in all these cases, to be treated as citizens of the country in which they reside, or at

se exijan ó exijieren por iguales artículos del producto natural o manufacturado de cualquiera otro país extranjero; ni se impondrán otros ó mas altos derechos ó gravámenes en ninguno de los dos países sobre la esportacion de cualesquiera artículos para la República de Nicaragua, ó para los Estados Unidos respectivamente, que los que deban exijirse por la esportacion de iguales artículos para cualquiera otro país extranjero; ni se establecera prohibicion alguna respecto á la importacion ó exportacion de cualesquiera artículos del producto natural ó manufacturado de los territorios de la República de Nicaragua para los de los Estados Unidos, ó de los territorios de los Estados Unidos para los de la República de Nicaragua, que no sea igualmente estension á las otras naciones.

ARTICULO VI.

Afin de remover la posibilidad de cualquiera mala inteligencia con respecto á los tres Artículos anteriores se declara aqui: que las estipulaciones contenidas en ellos son aplicables en toda su estension á los buques de Nicaragua y sus cargamentos que arriben á los puertos de los Estados Unidos, y reciprocamente á los buques de los Estados Unidos y sus cargamentos que arriben á los puertos de Nicaragua; sea que procedan de los puertos del país á que ellos pertenezcan respectivamente ó de los de cualquiera otro país extranjero; y que en ningún caso se impondrá ó cobrará derecho alguno diferencial en los puertos de los dos países sobre los dichos buques ó sus cargamentos, ya sean estos del producto ó manufactura nacional ó del producto ó manufacturo extranjero.

ARTICULO VII.

Se conviene ademas, que será enteramente libre á los comerciantes, capitanes de buques y otros ciudadanos de ambos países manejar á su voluntad sus negocios por si mismos, ó por medio de sus agentes, en todos los puertos y lugares sujetos á la jurisdiccion del uno ú del otro, tanto con respecto á las consignaciones y ventas por mayor ó menor de sus efectos y mercaderias, como con respecto á la carga, descarga y despacho de sus buques, ú otros negocios, debiendo en todos estos casos ser tratados como ciudadanos del país

least to be placed on an equality with the subjects or citizens of the most favoured nation.

ARTICLE VIII.

The citizens of neither of the Contracting Parties shall be liable to any embargo, nor be detained with their vessels, cargoes, merchandise, or effects, for any military expedition, nor for any public or private purpose whatever, without allowing to those interested an equitable and sufficient indemnification.

ARTICLE IX.

Whenever the citizens of either of the Contracting Parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other with their vessels, whether merchant or war, public or private, through stress of weather, pursuit of pirates or enemies, or want of provisions or water, they shall be received and treated with humanity, giving to them all favour and protection for repairing their ships, procuring provisions, and placing themselves in a situation to continue their voyages, without obstacle or hindrance of any kind.

ARTICLE X.

All ships, merchandise, and effects belonging to the citizens of one of the Contracting Parties, which may be captured by pirates, whether within the limits of its jurisdiction or on the high seas, and may be carried or found in the rivers, roads, bays, ports, or dominions of the other, shall be delivered up to the owners, they proving, in due and proper form, their rights, before the competent tribunals; it being well understood that the claim shall be made within the term of one year, by the parties themselves, their attorneys or agents of their respective Governments.

ARTICLE XI.

When any vessels belonging to the citizens of either of the Contracting Parties shall be wrecked or foundered, or shall suffer any damage, on the coasts or within the dominions of the other, there shall be given to them all

en que residan, ó considerados al menos bajo igual pie que los subditos ó ciudadanos de la nacion mas favorecida.

ARTICULO VIII.

Los ciudadanos de una y otra de las Partes Contratantes no podrán ser embargados ó detenidos con sus embarcaciones, tripulaciones, mercaderías y efectos comerciales de su pertenencia, para ninguna expedicion militar, ni para usos publicos ó particulares, cualesquiera que sean, sin conceder á los interesados una justa y suficiente indemnizacion.

ARTICULO IX.

Siempre que los ciudadanos de alguna de las Partes Contratantes se vieren precisados á buscar refugio ú asilo en los rios, bahias, puertos ó dominios de la otra con sus buques, sean mercantes ó de guerra, publicos ó particulares, por mal tiempo; persecucion de piratos ó enemigos, ó falta de aguada ó provisiones, serán recibidos y tratados con humanidad, dispensandoles todo favor y proteccion para reparar sus buques, desprárv vivares, y ponerse en situacion de continuar su viage sin obstaculo ni molestia de ningun genero.

ARTICULO X.

Todos los buques, mercaderías y efectos pertenecientes á los ciudadanos de la una de las Partes Contratantes, que a caso fueren apresados por piratas, bien sea dentro de los limites de su jurisdiccion ó en alta mar, y fueren llevados ó hallados en los rios, radas, bahias, puertos, ó dominios de la otra, serán entregados á sus dueños, probando estos en la forma propia y debida sus derechos ante los tribunales competentes: bien entendido, que el reclamo ha de hacerse dentro del termino de un año por las mismas partes ó por sus procuradores ó por los agentes de sus respectivos Gobiernos.

ARTICULO XI.

Cuando algun buque perteneciente á los ciudadanos de cualquiera de las Partes Contratantes naufrague, encalle ó sufra alguna averia en las costas, ó dentro de los dominios de la otra, se le dará toda ayuda y proteccion, del pro-

assistance and protection, in the same manner which is usual and customary with the vessels of the nation where the damage happens; permitting them to unload the same vessel, if necessary, of its merchandise and effects, without exacting for it any duty, impost or contribution whatever, unless they may be destined for consumption or sale in the country of the port where they may have been disembarked.

ARTICLE XII.

The citizens of each of the Contracting Parties shall have power to dispose of their personal goods or real estate within the jurisdiction of the other, by sale, donation, testament, or otherwise; and their representatives, being citizens of the other party, shall succeed to their said personal goods or real estate, whether by testament or *ab intestato*, and they may take possession thereof, either by themselves or others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein said goods are shall be subject to pay in like cases.

ARTICLE XIII.

Both Contracting Parties promise and engage formally to give their special protection to the persons and property of the citizens of each other, of all occupations, who may be in the territories subject to the jurisdiction of one or the other, transient or dwelling therein, leaving open and free to them the tribunals of justice, for their judicial recourse, on the same terms which are usual and customary with the natives or citizens of the country, for which purpose they may either appear in proper person, or employ, in the prosecution or defence of their rights, such advocates, solicitors, notaries, agents, and factors as they may judge proper, in all their trials at law; and such citizens or agents shall have free opportunity to be present at the decisions or sentences of the tribunals in all cases which may concern them, and shall enjoy in such cases all the rights and privileges accorded to the native citizen.

ARTICLE XIV.

The citizens of the United States residing in the territories of the Re-

pio modo que es uso y costumbre con los buques de la nacion en donde suceda la averia; permitiendose descargar el dicho buque, si fuere necesario, de sus mercaderias y efectos, sin exigir por esto ningun derecho, impuesto ó contribucion de ninguna especie, ó no ser quese destinen á la venta á consumo en el pais en cuyo puerto se huvieren desembarcado.

ARTICULO XII.

Los ciudadanos de cada una de las Partes Contratantes tendrán facultad para disponer de sus bienes muebles é inmuebles dentro de la jurisdiccion de la otra, por venta, donacion, testamento, ó de otro modo; y sus representantes, siendo ciudadanos de la otra parte, sucederán á sus dichos bienes muebles é inmuebles, sea por testamento ó *ab intestato*, y podrán tomar posesion de ello, por si personalmente, ó por medio de otros que procedan en su nombre, y disponer de los mismos á su arbitrio, pagando solo aquellas cargas que en iguales casos estuvieren obligados á pagar los habitantes del pais en donde esten los referidos bienes.

ARTICULO XIII.

Ambas Partes Contratantes se comprometen y obligan en toda forma á dispensar reciprocamente su proteccion especial á las personas y propiedades de los ciudadanos de cada una de ellas, de todas profesiones, transeuntes ú habitantes en los territorios sujetos á la jurisdiccion de una y otra, dexandoles abiertos y libres los tribunales de justicia para sus recursos judiciales, en los mismos terminos usados y acostumbrados para los naturales ó ciudadanos del pais; para lo cual podrán jestionar en persona ó emplear en la jestion ó defenza de sus derechos á los abogados, procuradores, escribanos, agentes ó apoderados que juzguen convenientes para todos sus litigios; y dichos ciudadanos ó agentes tendrán la libre facultad de estar presentes en las decisiones y sentencias de los tribunales, en todos los casos que los conciernan; y gozarán de todos los privilegios y derechos concedidos á los ciudadanos naturales.

ARTICULO XIV.

Los ciudadanos de la República de Nicaragua residentes en territorio de

public of Nicaragua shall enjoy the most perfect and entire security of conscience, without being annoyed, prevented, or disturbed on account of their religious belief. Neither shall they be annoyed, molested, or disturbed in the proper exercise of their religion, in private houses, or in the chapels or places of worship appointed for that purpose, provided that in so doing they observe the decorum due to Divine worship, and the respect due to the laws, usages, and customs of the country. Liberty shall also be granted to bury the citizens of the United States who may die in the territories of the Republic of Nicaragua in convenient and adequate places, to be appointed and established by themselves for that purpose, with the knowledge of the local authorities, or in such other places of sepulture as may be chosen by the friends of the deceased; nor shall the funerals or sepulchres of the dead be disturbed in anywise or upon any account.

In like manner, the citizens of Nicaragua shall enjoy within the Government and territories of the United States a perfect and unrestrained liberty of conscience, and of exercising their religion, publicly or privately, within their own dwelling-houses, or in the chapels or places of worship appointed for that purpose, agreeably to the laws, usages, and customs of the United States.

ARTICLE XV.

It shall be lawful for the citizens of the United States of America and of the Republic of Nicaragua to sail with their ships, with all manner of liberty and security, no distinction being made who are the proprietors of the merchandize laden thereon, from any port to the places of those who now are, or hereafter shall be, at enmity with either of the Contracting Parties. It shall likewise be lawful for the citizens aforesaid to sail with the ships and merchandise before mentioned, and to trade with the same liberty and security, from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy before mentioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of one Power or under

los Estados Unidos, gozarán una perfecta é ilimitada libertad de conciencia, sin ser molestados, inquietados ni perturbados por su creencia religiosa. No serán molestados, inquietados ni perturbados en el ejercicio de su religion, en casas privadas ó en las capillas ó lugares de adoracion designados al efecto con el decoro debido á la divinidad y respeto á las leyes, usos y costumbres del pais. Tambien tendrán libertad para enterrar los ciudadanos de Nicaragua que mueran en territorio de los Estados Unidos, en los lugares convenientes y adecuados, designados y establecidos por ellos con acuerdo de las autoridades locales, ó en los lugares de sepultura que elijan los amigos de los muertos, y los funerales y sepulcros no serán trastornados de modo alguno ni por ningun motivo.

De la misma manera, los ciudadanos de los Estados Unidos gozarán en territorio de la República de Nicaragua perfecta é ilimitada libertad de conciencia, y ejercerán su religion publica ó privadamente en sus mismas habitaciones, ó en las capillas ó lugares de adoracion designados al efecto, de conformidad con las leyes, usos y costumbres de la República de Nicaragua.

ARTICULO XV.

Será lícito á los ciudadanos de la República de Nicaragua y de los Estados Unidos de America navegar con sus buques, con toda seguridad y libertad, de cualquier puerto á las plazas y lugares de los que son ó fueren en adelante enemigos de cualquiera de las dos Partes Contratantes, sin hacerse distincion de quienes son los dueños de las mercaderias que llevan de á su bordo. Será igualmente lícito á los referidos ciudadanos navegar con sus buques y mercaderias mencionadas, y traficar con la misma libertad y seguridad, de los lugares, puertos y ensenadas de los enemigos de ambas partes ó de alguna de ellas, sin oposicion ó molestia de ninguna especie, no solo directamente de los lugares enemigos arriba mencionados á los lugares neutros, sino tambien de un lugar perteneciente á un enemigo á otro enemigo, ya sea que esten bajo la jurisdiccion de una sola Potencia, ó bajo la de diversas. Y

several. And it is hereby stipulated, that free ships shall also give freedom to goods, and that everything which shall be found on board the ships belonging to the citizens of either of the Contracting Parties shall be deemed to be free and exempt, although the whole lading, or any part thereof, should appertain to the enemies of either (contraband goods being always excepted). It is also agreed, in like manner, that the same liberty shall be extended to persons who are on board a free ship, with this effect: that, although they be enemies to both or either party, they are not to be taken out of that free ship, unless they are officers and soldiers in the actual service of the enemies; provided, however, and it is hereby agreed, that the stipulations in this Article contained, declaring that the flag shall cover the property, shall be understood as applying to those Powers only who recognise this principle; but, if either of the two Contracting Parties shall be at war with a third, and the other remains neutral, the flag of the neutral shall cover the property of enemies whose Governments acknowledge this principle, and not of others.

ARTICLE XVI.

It is likewise agreed that, in the case where the neutral flag of one of the Contracting Parties shall protect the property of the enemies of the other, by virtue of the above stipulation, it shall always be understood that the neutral property found on board such enemies' vessels shall be held and considered as enemies' property, and as such shall be liable to detention and confiscation, except such property as was put on board such vessel before the declaration of war, or even afterwards, if it were done without the knowledge of it; but the Contracting Parties agree that, two months having elapsed after the declaration of war, their citizens shall not plead ignorance thereof. On the contrary, if the flag of the neutral does not protect the enemies' property, in that case the goods and merchandize of the neutral embarked on such enemies' ships shall be free.

queda aqui estipulado, que los buques libres hacen libres tambien á las mercaderias, y que se ha de considerar libre y exento todo lo que se hallare á bordo de los buques pertenecientes á los ciudadanos de cualquiera de las Partes Contratantes, aunque toda la carga ó parte de ella pertenesca á enemigos de una ú otra; exceptuados siempre los artículos de contrabando. Se conviene tambien del mismo modo en que la misma libertad sea estensiva á las personas que se encuentren á bordo de buques libres, con el fin de que aunque dichos sean enemigos de ambas partes, ó de alguna de ellos, no deban ser astraídas de los dichos buques libres, á menos que sean oficiales ó soldados en actual servicio de los enemigos: á condicion no obstante, como espresamente se conviene, que las estipulaciones contenidas en el presente Artículo, por las que se declara que el pabellon cubre la propiedad, se entenderán aplicables solamente á aquellas Potencias que reconozcan este principio: pero si alguna de las dos Partes Contratantes estuviere en guerra con una tercera, y la otra permaneciere neutral, la bandera de la neutral cubrira la propiedad de los enemigos, cuyos gobiernos reconozcan este principio, y no de otros.

ARTICULO XVI.

Se conviene igualmente, que en el caso de que la bandera neutral de una de las Partes Contratantes proteja las propiedades de los enemigos de la otra, en virtud de lo estipulado arriba, deberá siempre entenderse, que las propiedades neutrales encontradas á bordo de tales buques enemigos han de tenerse y considerarse como propiedades enemigas, y como tales estarán sujetas á detencion y confiscacion, exceptuando aquellas propiedades que huiesen sido quiestas á bordo de tales buques antes de la declaratoria de la guerra, y aun despues, si huiesen sido embarcadas en dichos buques sin tener noticia de ella; pero las Partes Contratantes convienen en que, pasados dos meses despues de la declaratoria de la guerra, sus respectivos ciudadanos no podran alegar que la ignoraban. Por el contrario, si la bandera neutral no protege las propiedades enemigas, entonces serán libres los efectos y mercaderias de la parte neutral embarcadas en buques ene-

ARTICLE XVII.

This liberty of navigation and commerce shall extend to all kinds of merchandize, excepting those only which are distinguished by the name of "contraband;" and under this name of contraband or prohibited goods shall be comprehended:

1. Cannons, mortars, howitzers, swivels, blunderbusses, muskets, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberts, hand-grenades, bombs, powder, matches, balls, and all other things belonging to the use of these arms.

2. Bucklers, helmets, breastplates, coats of mail, infantry-belts, and clothes made up in the form and for the military use.

3. Cavalry-belts, and horses, with their furniture.

4. And generally all kind of arms and instruments of iron, steel, brass, and copper, or of any other materials manufactured, prepared, and formed expressly to make war by sea or land.

5. Provisions that are imported into a besieged or blockaded place.

ARTICLE XVIII.

All other merchandise and things not comprehended in the articles of contraband explicitly enumerated and classified as above shall be held and considered as free, and subjects of free and lawful commerce, so that they may be carried and transported, in the freest manner, by the citizens of both the Contracting Parties, even to places belonging to an enemy, excepting those places only which are at that time besieged or blockaded; and, to avoid all doubt in this particular, it is declared that those places only are besieged or blockaded which are actually attacked by a belligerent force capable of preventing the entry of the neutral.

ARTICLE XIX.

The articles of contraband before enumerated and classified, which may be found in a vessel bound for an enemy's port, shall be subject to detention and confiscation, leaving free the rest of the cargo and the ship, that the owners may dispose of them as they

ARTICULO XVII.

Esta libertad de navegacion y comercio se estenderá á todo genero de mercaderias, exceptuando unicamente aquellas que se distinguen con el nombre de "contrabando;" y bajo este nombre de contrabando ú efectos prohibidos se comprenderán:

1. Cañones, morteros, obuces, pedreros, trabucos, fuciles, rifles, carabinas, pistolas, picas, espadas, sables, lanzas, chusos, alabandas; y granadas, bombas, polvora, mechas, balas, con todas las demas cosas correspondientes al uso de estas armas.

2. Escudos, carquetes, corazas, cotas de malla, fornituras y vestidos hechos en forma y á uzar de militar.

3. Bandoleras y caballos con sus arneses.

4. Y generalmente toda especie de armas é instrumentos de hierro, asero, bronce, cobre y otras materias cualesquiera manufacturadas, preparadas y formadas espresamente para hacer la guerra por mar ó por tierra.

5. Los viveres que se introducen á una plaza sitiada ó bloqueada.

ARTICULO XVIII.

Todas las demas mercaderias y efetos no comprendidos en los articulos de contrabando esplicitamente enumerados y clasificados en el Articulo anterior serán tenidos y reputados como libres y de licito y legitima comercio, de modo que podrán ser conducidos y trasportados de la manera mas franca por los ciudadanos de ambas Partes Contratantes, aun á los lugares pertenecientes á enemigo, exceptuando solo aquellas plazas que se hallen actualmente sitiadas ó bloqueadas; y para evitar en el particular toda duda se declaran sitiadas ó bloqueadas solamente aquellas plazas que en la actualidad estuvieren atacadas por una fuerza de un beligerante capaz de impedir la entrada del neutral.

ARTICULO XIX.

Los articulos de contrabando antes enumerados y clasificados que se hallen en un buque destinado á puerto enemigo, estarán sujetos á detencion y confiscacion, dexando libre el resto del cargamento y el buque, para que los dueños puedan disponer de ellos como

see proper. No vessel of either of the two nations shall be detained on the high seas on account of having on board articles of contraband, whenever the master, captain, or supercargo of said vessels will deliver up the articles of contraband to the captor, unless the quantity of such articles be so great and of so large a bulk, that they cannot be received on board the capturing ship without great inconvenience; but in this and all other cases of just detention, the vessel detained shall be sent to the nearest convenient and safe port for trial and judgment according to law.

ARTICLE XX.

And whereas it frequently happens that vessels sail for a port or place belonging to an enemy without knowing that the same is besieged, or blockaded, or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place, but shall not be detained; nor shall any part of her cargo, if not contraband, be confiscated, unless, after warning of such blockade or investment from the commanding officer of the blockading forces, she shall again attempt to enter, but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel that may have entered into such port before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting that place with her cargo; nor, if found therein after the reduction and surrender, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof.

ARTICLE XXI.

In order to prevent all kind of disorder in the visiting and examination of the ships and cargoes of both the Contracting Parties on the high seas, they have agreed mutually that whenever a national vessel of war, public or private, shall meet with a neutral of the other Contracting Party, the first shall remain out of cannon-shot, unless in stress of weather, and may send its boat, with two or three men only, in order to execute the said examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence, or

lo tengan por conveniente. Ningun buque de cualquiera de las dos naciones será detenido en alta mar por tener á su bordo artículos de contrabando, siempre que el maestre, capitán ó sobrecargo de dicho buque quira entregar los artículos de contrabando al apresador, á menos que la cantidad de dichos artículos sea tan grande y de tanto volumen que no puedan ser recididos á bordo del buque apresador sin graves inconvenientes; pero en este y en todos los demas casos de justa detencion, el buque detenido será enviado al puerto mas inmediato, comodo y seguro, para que alli se siga el juicio y se dicte sentencia conforme á las leyes,

ARTICULO XX.

Y por cuanto frecuentemente sucede que los buques navegan para un puerto ó lugar perteneciente á un enemigo, sin saber que se halle sitiado, bloqueado ó embestido, se conviene en que á todo buque, en tales circunstancias, se le pueda hacer retroceder de dicho puerto ó lugar; pero no será detenido ni confiscada parte alguna de su cargamento, no siendo contrabando; á menos que, despues de la intimacion de semejante bloqueo ó embestimento por el comandante de las fuerzas bloqueadoras, ententare, otra vez entrar; pero le será permitido á cualquiera otro puerto ó lugar á donde lo tuviere por conveniente. Ni á buque alguno que huirere entrado en un puerto antes de que estuviere sitiado, bloqueado, ú embestido, se le impedira salir de él con su cargamento; ni siendo hallado alli despues de la rendicion y entrega del lugar estarán sujetos á confiscacion el tal buque ó su cargamento, sino que serán restituidos á sus dueños.

ARTICULO XXI.

Con el objeto de prevenir todo genero de desorden en la visita y reconocimiento de los buques y cargamentos de ambas Partes Contratantes en alta mar, han convenido mutuamente, que siempre que un buque nacional de guerra se encontrará con un neutral de la otra Parte Contratante, el primera permanecerá fuera del tiro de cañon, salvo en casa de mala mar, y podrá embiar su bote, con dos ó tres hombres solamente, para verificar el dicho reconocimiento de los papeles concernientes á la propiedad y carga del buque, sin ocasionarle la menor es-

ill-treatment, for which the commanders of said armed ships shall be responsible with their persons and property; for which purpose the commanders of private armed vessels shall, before receiving their commissions, give sufficient security to answer for all the damages they may commit. And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting her papers, or for any other purpose whatever.

ARTICLE XXII.

To avoid all kinds of vexation and abuse in the examination of the papers relating to the ownership of the vessels belonging to the citizens of the two Contracting Parties, they have agreed, and do hereby agree, that in case one of them should be engaged in war, the ships and vessels belonging to the citizens of the other must be furnished with sea-letters or passports expressing the name, property, and bulk of the ship, as also the name and place of habitation of the master and commander of the said vessel, in order that it may thereby appear that the ship really and truly belongs to the citizens of one of the parties. They have likewise agreed, that when such ships have a cargo, they shall also be provided, besides the said sea-letters or passports, with certificates containing the several particulars of the cargo, and the place whence the ship sailed, so that it may be known whether any forbidden or contraband goods are on board the same; which certificates shall be made out by the officers of the place whence the ship sailed in the accustomed form; without which requisites, said vessel may be detained to be adjudged by the competent tribunal, and may be declared lawful prize, unless the said defect shall be proved to be owing to accident, and shall be satisfied or supplied by testimony equivalent.

ARTICLE XXIII.

It is further agreed, that the stipulations above expressed, relative to the visiting and examination of vessels, shall apply only to those which sail without convoy; and when said vessels

torción, violencia ó mal trato; sobre lo cual serán responsables con sus personas y bienes los comandantes del dicho buque armado. Para este fin los comandantes del buques armados por cuenta de particulares, estarán obligados antes de recibir sus patentes, á dar fianza suficiente para responder de los perjuicios que puedan causar. Y se ha convenido espresamente, que en ningun caso se exigirá de la parte neutral que vaya á bordo del buque reconocido con el fin de exhibir sus papeles, ó para cualquiera otro objeto.

ARTICULO XXII.

Para evitar toda clase de vejamen y abuso en el escrutinio de los papeles relativos á la propiedad de los buques pertenecientes á los ciudadanos de las dos Partes Contratantes, estas han convenido y convienen, que en caso de que una de ellas estuviere en guerra, los buques y bajeles pertenecientes á los ciudadanos de la otra deberán proveerse con patentes de navegacion ó pasaportes en que se espresen el nombre, propiedad y capacidad del buque; como tambien el nombre y el lugar de la residencia del maestre ó comandante, á fin de que se vea que el buque pertenece real y verdaderamente á los ciudadanos de una de las partes: y han convenido igualmente, que estando cargados los espresados buques, ademas de las patentes de navegacion ó pasaportes, iran tambien provistos de certificados que contengan los pormenores del cargamento y el lugar de donde se luzo á la vela el buque, para que asi pueda saberse si hay á su bordo algunos efectos prohibidos ó de contrabando, cuyos certificados serán expedidos en la forma acostumbrada por los empleados del lugar de la procedencia del buque, sin cuyos requisitos el dicho buque podrá ser detenido para que se le juzgue por el tribunal competente, y podra ser declarado buena presa, á menos que se pruebe que el defecto proviene de algun accidente, y se satisfaga, ó subsane con testimonios del todo equivalentes.

ARTICULO XXIII.

Se ha convenido ademas, que las estipulaciones anteriores relativas al reconocimiento y visita de los buques, se aplicarán unicamente á los que naveguen sin convoy, y que cuando los

shall be under convoy, the verbal declaration of the commander of the convoy, on his word of honour, that the vessels under his protection belong to the nation whose flag he carries, and, when they may be bound to an enemy's port, that they have no contraband goods on board, shall be sufficient.

ARTICLE XXIV.

It is further agreed, that in all cases the established Courts for prize causes in the country to which the prizes may be conducted shall alone take cognizance of them. And whenever such tribunals, of either party, shall pronounce judgment against any vessel, or goods, or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives upon which the same shall have been founded; and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of said vessel without any delay, he paying the legal fees for the same.

ARTICLE XXV.

For the purpose of lessening the evils of war, the two High Contracting Parties further agree, that in case a war should unfortunately take place between them, hostilities shall only be carried on by persons duly commissioned by the Government, and by those under their orders, except in repelling an attack or invasion, and in the defence of property.

ARTICLE XXVI.

Whenever one of the Contracting Parties shall be engaged in war with another State, no citizen of the other Contracting Party shall accept a commission or letter of marque for the purpose of assisting or cooperating hostilely with the said enemy against the said parties so at war, under the pain of being treated as a pirate.

ARTICLE XXVII.

If by any fatality (which cannot be expected, and God forbid) the two Contracting Parties should be engaged

dichos buques estuvieren bajo de convoy, será suficiente la declaracion verbal del comandante de este, bajo su palabra de honor de que los buques que se hallan bajo su proteccion pertenecen á la nacion cuya bandera llevan; y cuando si dirigan á un puerto enemigo, que los dichos buques no tienen á su bordo artículos de contrabando.

ARTICULO XXIV.

Se ha convenido ademas, que en todos los casos que ocurran, solo los tribunales establecidos para causas de presas en el pais á que las presas sean conducidas, tomarán conocimiento de ellas. Y siempre que tales tribunales de una de las partes pronunciaren sentencia contra algun buque, ó efectos ó propiedad reclamada por los ciudadanos de la otra, la sentencia ó decreto hará mencion de las razones ó motivos en que aquella se huirere fundado, y se franqueará sin retardo alguno al comandante ó agente de dicho buque, si lo solicitare, un testimonio autentico de la sentencia ó decreto, ó de todo el proceso, satisfaciendo por el los derechos legales.

ARTICULO XXV.

Con el fin de disminuir los males de la guerra, las dos Altas Partes Contratantes convienen ademas: que en caso de suscitarse desgraciadamente una guerra entre ellas, solo se llevarán á efecto las hostilidades por aquellas personas debidamente autorizadas por el Gobierno, y por las que están bajo sus ordenes, exceptuados los casos de repeler un ataque ó invasion, y en la defenza de la propiedad.

ARTICULO XXVI.

Siempre que una de las Partes Contratantes estuviere empeñada en guerra con otro Estado, ningun ciudadano de la otra Parte Contratante aceptará comision ó patente de corso para el objeto de auxiliar ó cooperar hostilmente con el dicho enemigo contra la mencionada parte que este en guerra, bajo la pena de ser tratado como pirata.

ARTICULO XXVII.

Si por alguna fatalidad, que no puedo esperarse, y que Dios no permita, las dos Partes Contratantes se viesen em-

n a war with each other, they have agreed, and do agree, now for then, that there shall be allowed the term of six months to the merchants residing on the coasts and in the ports of each other, and the term of one year to those who dwell in the interior, to arrange their business and transport their effects wherever they please, giving to them the safe-conduct necessary for it, which may serv easa sufficient protection until they arrive in the designated port. The citizens of all other occupations who may be established in the territories or dominions of the United States or of Nicaragua shall be respected and maintained in the full enjoyment of their personal liberty and property, unless their particular conduct shall cause them to forfeit this protection, which, in consideration of humanity, the Contracting Parties engage to give them.

ARTICLE XXVIII.

Neither the debts due from individuals of the one nation to the individuals of the other, nor shares nor money which they may have in the public funds, nor in public or private banks, shall ever, in any event of war or of national difference, be sequestered or confiscated.

ARTICLE XXIX.

Both the Contracting Parties, being desirous of avoiding all inequality in relation to their public communications and official intercourse, have agreed, and do agree, to grant to the Envoys, Ministers, and other public agents, the same favours, immunities, and exemptions which those of the most favoured nations do or shall enjoy; it being understood that whatever favours, immunities, or privileges the United States of America or the Republic of Nicaragua may find it proper to give to the Ministers and public agents of any other Power, shall by the same Act be extended to those of each of the Contracting Parties.

ARTICLE XXX.

To make more effectual the protection which the United States and the Republic of Nicaragua shall afford in future to the navigation and commerce of the citizens of each other, they agree to receive and admit Consuls and Vice-

peñadas en guerra una con otra, han convenido y convienen desde ahora para entonces, que se concederá el termino de seis meses á los comerciantes residentes en las costas y en los puertos de entrambas, y el termino de un año á los que habitan en el interior, para arreglar sus negocios, y trasportar sus efectos á donde quieran, dandoles el salvo conducto necesario que les servá de suficiente proteccion hasta que lleguen al puerto designado. Los ciudadanos dedicados á cualquiera otras ocupaciones, que se hallaren establecidos en los territorios ó dominios de Nicaragua ó de los Estados Unidos, serán respetados y mantenidos en el pleno goze de su libertad personal y de sus propiedades, á menos que su particular conducta les haga desmerecer esta proteccion, que las Partes Contratantes se comprometen á prestarles por consideraciones de humanidad.

ARTICULO XXVIII.

Ni las deudas contraidas por los individuos de la una nacion en favor de los individuos de la otra, ni las acciones ó cantidades que puedan tener en los fondos publicos, ó en los bancos publicos ó particulares, serán jamas confiscadas ó secuestradas en ningun caso de guerra ó desavenencia nacional.

ARTICULO XXIX.

Deseando ambas Partes Contratantes evitar toda desigualdad en lo relativo á sus comunicaciones publicas y su correspondencia oficial, han convenido y convienen en conceder á sus Enviados, Ministros, y agentes publicos los mismos favores, inmunidades y exenciones que gozan ó gozaren los de las naciones mas favorecidas; bien entendido que cualesquiera favores, inmunidades ó privilegios de la República de Nicaragua ó los Estados Unidos tengan por conveniente otorgar á los Enviados, Ministros, y agentes diplomaticos de otras Potencias, se harán por el mismo hecho extensivos á los de una y otra de las Partes Contratantes.

ARTICULO XXX.

Para hacer mas efectiva la proteccion que Nicaragua y los Estados Unidos de America dispensarán en adelante á la navegacion y comercia de los ciudadanos de una y otra, convienen en recibir y admitir Consules

Consuls in all the ports open to foreign commerce, who shall enjoy in them all the rights, prerogatives, and immunities of the Consuls and Vice-Consuls of the most favoured nation: each Contracting Party, however, remaining at liberty to except those ports and places in which the admission and residence of such Consuls may not seem convenient.

ARTICLE XXXI.

In order that the Consuls and Vice-Consuls of the two Contracting Parties may enjoy the rights, prerogatives, and immunities which belong to them by their public character, they shall, before entering on the exercise of their functions, exhibit their commission or patent, in due form, to the Government to which they are accredited; and, having obtained their *exequatur*, they shall be held and considered as such by all the authorities, magistrates, and inhabitants in the Consular district in which they reside.

ARTICLE XXXII.

It is likewise agreed that the Consuls, their secretaries, officers, and persons attached to the service of Consuls, they not being citizens of the country in which the Consul resides, shall be exempt from all public service, and also from all kind of taxes, imposts, and contributions, except those which they shall be obliged to pay on account of commerce or their property, to which the citizens and inhabitants, native and foreign, of the country in which they reside are subject, being in everything besides subject to the laws of the respective States. The archives and papers of the Consulates shall be respected inviolably, and under no pretext whatever shall any magistrate seize, or in any way interfere with them.

ARTICLE XXXIII.

The said Consuls shall have power to require the assistance of the authorities of the country for the arrest, detention and custody of deserters from the public and private vessels of their country; and for that purpose they shall address themselves to the courts, judges, and officers competent, and shall demand, in writing, the said de-

y Vice-Consules en todos los puertos abiertos al comercio estranger, quienes gozarán en ellos de todos los derechos, prerogativas é inmunidades de los Consules y Vice-Consules de la nacion mas favorecida, quedano no obstante en libertad cada una de las Partes Contratantes para exceptuar aquellos puertos y lugares en que la admision y residencia de tales Consules pueda no parecer conveniente.

ARTICULO XXXI.

Para que los Consules y Vice-Consules de las dos Partes Contratantes puedan gozar de los derechos, prerogativas é inmunidades que les corresponden por su caracter publico, antes de entrar en el ejercicio de sus funciones, presentarán su comision ó patente en la forma debida al Gobierno respecto del cual estan acreditados; y habiendo obtenido su *exequatur*, serán reputados y considerados como tales por todos los autoridades, magistrados, y habitantes del distrito Consular en que residan.

ARTICULO XXXII.

Se ha convenido igualmente, que los Consules, sus secretarios, oficiales, y personas agregadas al servicio de los Consules (no siendo estas personas ciudadanos del pais en donde el Consul reside), estarán exentas de todo servicio publico, y tambien de toda especie de pechos, impuestos y contribuciones, exceptuando aquellas que esten obligados á pagar por razon de comercio ó propiedad, y á las cuales están sujetos los ciudadanos y habitantes naturales y estrangeros en el pais en que residen, quedano en todo lo demas sometidos á las leyes de los respectivos Estados. Los archivos y papeles de los Consulados seran respetados inviolablemente, y bajo ningun pretesto los ocupará majistrado alguno, ni tendrá en ellos ninguna intervencion.

ARTICULO XXXIII.

Los dichos Consules tendrán facultad para requerir el auxilio de las autoridades locales para la prision, detencion, y custodia de los desertores de buques, publicos y particulares, de su respectivo pais; y con este objeto se dirigirán á los tribunales, jueces y empleados competentes, y reclamarán por escrito los dichos desertores, probando con la

serters, proving, by an exhibition of the registers of the vessels, or ship's roll, or other public documents, that those men were part of the said crews; and on this demand, so proved (saving, however, where the contrary is proved by other testimonies), the delivery shall not be refused. Such deserters, when arrested, shall be put at the disposal of the said Consuls, and may be put in the public prisons, at the request and expense of those who reclaim them, to be sent to the ships to which they belong, or to others of the same nation. But if they be not sent back within two months, to be counted from the day of their arrest, they shall be set at liberty, and shall be no more arrested for the same cause.

ARTICLE XXXIV.

For the purpose of more effectually protecting their commerce and navigation, the two Contracting Parties do hereby agree to form, as soon hereafter as circumstances will permit, a Consular Convention, which shall declare specially the powers and immunities of the Consuls and Vice-Consuls of the respective parties.

ARTICLE XXXV.

It is and has been stipulated by and between the High Contracting Parties:

1. That the citizens, vessels, and merchandise of the United States shall enjoy in all the ports and harbours of Nicaragua, upon both oceans, a total exemption from all port-charges, tonnage or anchorage duties, or any other similar charges now existing, or which may hereafter be established, in manner the same as if said ports had been declared free ports. And it is further stipulated, that the right of way or transit across the territories of Nicaragua, by any route or upon any mode of communication at present existing, or which may hereafter be constructed, shall at all times be open and free to the Government and citizens of the United States for all lawful purposes whatever; and no tolls, duties, or charges of any kind shall be imposed upon the transit, in whole or part, by such modes of communication, of vessels of war or other property belonging to the Government of the United States, or on public mails sent under the authority of the same, or upon persons in its

presentacion de los registros de los buques del rol de la tripulacion y de otros documentos publicos que aquellos hombres hacian parte de las dichas tripulaciones: y á virtud de esta demanda asi probada (exceptuando no obstante el caso en que se probare por otros testimonios lo contrario) no se rehusará la entrega. Aprendidos dichos desertores, serán puestos á disposicion de los mencionados Consules, y podrán ser depositados en las carceles publicas á solicitud y á espensas de los que los reclamen para ser enviados á los buques á que correspondian ó á otros de la misma nacion. Pero sino fueren remitidos dentro de dos meses, contados desde el dia de su arresto, serán puestos en libertad, y no volverán á ser presos por la misma causa.

ARTICULO XXXIV.

Con el objeto de proteger mas eficazmente su comercio y navegacion, las dos Partes Contratantes convienen aqui en formar, luego que las circunstancias lo permitan, una Convencion Consular que declarará mas especialmente las atribuciones é inmunidades de los Consules y Vice-Consules de las partes respectivas.

ARTICULO XXXV.

Se estipula y se ha estipulado entre las dos Altas Partes Contratantes:

1. Que los ciudadanos, buques y mercancías de los Estados Unidos gozarán en todos puertos y abras de los mares de Nicaragua de total exclusion de carga, derechos de tonelage, anclage, y otras semejantes cargas que existan ó en adelante se establezcan, como si dichos puertos hubiesen sido declarados y establecidos puertos libres. Y ademas de esto se estipula, que el derechos de transito por los territorios de Nicaragua por alguna ruta ó medios de comunicacion ahora existentes ó que se construyan en lo de adelante, estarán siempre abiertos y libres al Gobierno y ciudadanos de los Estados Unidos para todo fin legal, y no se impondrán derechos algunos sobre el transito entero ó parcial de buques de guerra ú otra propiedad perteneciente á los Estados Unidos por dichos medios de comunicacion, ni tampoco sobre malas publicas enviadas bajo su autoridad ó sobre los empleados ó personas empleadas de dichos Gobiernos, ni sobre sus ciudadanos ó los buques que les

employ, nor upon citizens of the United States, nor upon vessels belonging to them. And it is also stipulated, that all lawful produce, manufactures, merchandise, or other property belonging to citizens of the United States passing from one ocean to the other, in either direction, for the purpose of exportation to foreign countries, shall not be subject to any import or export duties whatever; or if any citizens of the United States, having introduced such produce, manufactures, or merchandise, into the State of Nicaragua, for sale or exchange, shall, within three years thereafter, determine to export the same, they shall be entitled to drawback equal to four-fifths of the amount of duties paid upon their importation.

2. And inasmuch as a contract was entered into on the 27th day of August, 1849, between the Republic of Nicaragua and a company of citizens of the United States, styled the "American Atlantic and Pacific Ship-Canal Company," and in order to secure the construction and permanence of the great work thereby contemplated both High Contracting Parties do severally and jointly agree to protect and defend the above-named company in the full and perfect enjoyment of said work, from its inception to its completion, and after its completion, from any acts of invasion, forfeiture, or violence, from whatsoever quarter the same may proceed: and to give full effect to the stipulations here made, and to secure, for the benefit of mankind, the uninterrupted advantages of such communication from sea to sea, the United States distinctly recognises the rights of sovereignty and property which the State of Nicaragua possesses in and over the line of said canal, and for the same reason guarantees positively and efficaciously the entire neutrality of the same, so long as it shall remain under the control of citizens of the United States, and so long as the United States shall enjoy the privileges secured to them in the preceding section of this Article.

3. But if, by any contingency, the above-named "American Atlantic and Pacific Ship-Canal Company" shall fail to comply with the terms of their contract with the State of Nicaragua, all the rights and privileges which said contract confers shall accrue to any company of citizens of the United States which shall, within one year

pertenescan; y se estipula tambien que todo producto, manufacturas, mercancías ú otras propiedades de lícito comercio, pertenecientes á ciudadanos de los Estados Unidos que pasen de un oceano al otro en ambas direcciones, con objeto de exportacion á países extranjeros, no estarán sujetos á derechos de importacion ó exportacion; ó que si ciudadanos de dichos Estados habiendo introducido al Estado de Nicaragua productos, manufacturas y mercancías con el objeto de venderlas ó cambiarlas, determinasen el esportarlas antes de la expiracion de tres años despues de su introduccion, serán acreedores á una rebage de cuatro quintos del monto de los derechos pagados por su importacion.

2. Y en cuanto á que se ha hecho un contrato el veintisiete de Agosto del corriente año entre la República de Nicaragua y una compañía de ciudadanos de los Estados Unidos, titulada "Compañía Americana del Canal Marítimo Atlántico-Pacífico," á fin de asegurar la construccion y permanencia de la grande obra de que en el se trata, ambas Altas Partes Contratantes separada y juntamente convienen por el presente, en defendre y proteger á la espresada compañía en el pleno y perfecto goze de dicha obra desde su principio hasta su conclusion, y despues de su conclusion, en defenderla y protegerla contra todo acto de invasion, confiscacion, ó violencia, proceda este de donde procediere; y para que tengan cumplido efecto las estipulaciones aqui consignadas, uno tambien para asegurar en beneficio del genero humano las inmensas ventagas de una comunicacion inter-oceanica, los Estados Unidos reconocen distintamente los derechos de soberania y propiedad que el Estado de Nicaragua posee sobre toda la linea de dicho canal, y por la misma razon garantiza positiva y eficazmente su entera neutralidad, mientras este bajo la direccion ó administracion de ciudadanos de los Estados Unidos, y por todo el tiempo que los Estados Unidos disfruten de los privilegios que se les concede en la seccion precedente de este Artículo.

3. Pero si por alguna contingencia la susodicha "Compañía Americana del Canal Marítimo Atlántico-Pacífico" falsase en cumplir su contrato con el Estado de Nicaragua, todos los derechos y privilegios que dicho contrato confiere podrán pasar á cualquiera compañía de ciudadanos de los Estados Unidos que dentro de un año despues de la decla-

after the official declaration of failure, undertake to comply with its provisions, so far as the same may at that time be applicable, provided the Company thus assuming said contract shall first present to the President and Secretary of State of the United States satisfactory assurances of their intention and ability to comply with the same; of which satisfactory assurances the signature of the Secretary of State and the seal of the Department shall be complete evidence.

4. And it is also agreed, on the part of the Republic of Nicaragua, that none of the rights, privileges, and immunities guaranteed, and by the preceding Articles, but especially by section 1 of this Article, conceded to the United States and its citizens, shall accrue to any other nation or to its citizens, except such nation shall first enter into the same Treaty stipulations for the defence and protection of the proposed great Inter-oceanic Canal which have been entered into by the United States, in terms the same with those embraced in section 2 of this Article.

ARTICLE XXXVI.

The United States of North America and the Republic of Nicaragua, desiring to make as durable as possible the relations which are to be established by virtue of this Treaty, have declared solemnly, and do agree to, the following points:

1. The present Treaty, without prejudice to the provisions of section 2 of the preceding Article, shall remain in full force and vigour for the term of twenty years from the day of the exchange of ratifications; and if neither party notifies the other of its intention of reforming any or all the Articles of this Treaty twelve months before the expiration of the twenty years stipulated above, the said Treaty shall continue binding on both parties beyond the said twenty years until twelve months from the time that one of the parties notifies the other of its intention of proceeding to a reform.

2. The provisions of this Treaty shall extend to any confederation of Republican States of which Nicaragua may voluntarily become a part, or with which she may voluntarily become identified.

3. If any one or more of the citizens of either party shall infringe any of the

racion oficial de quiebra, quiera tomar á su cargo cumplir con sus estipulaciones en cuanto estas puedan en este tiempo ser aplicables, con tal que la compañía que así se apropie de dicho contrato, presente primero al Presidente y Secretario de Estado de los Estados Unidos, seguridades satisfactorias de su intencion y capacidad de cumplir con el, de las cuales serán suficientes pruebas la firma del Secretario de Estado, y el sello de su Departamento.

4. Y así mismo queda convenido, por parte del Estado de Nicaragua, que ninguno de los derechos, privilegios, é inmunidades garantizadas y concedidas por los precedentes Artículos; pero especialmente por la seccion 1 del presente, á los Estados Unidos y á sus ciudadanos, podrán pasar á ninguna otra nacion ó á sus ciudadanos, sino es que esta primero entre en las mismas estipulaciones del Tratado en que han convenido los Estados Unidos para la defenza y proteccion del proyectado gran canal inter-oceanico en los mismos terminos comprendidos en la seccion 2 de este Artículo.

ARTICULO XXXVI.

Los Estados Unidos de Norte America, y la República de Nicaragua, deseando hacer tan duraderas cuanto sea posible las relaciones que han de establecerse en virtud del presente Tratado, han declarado solemnemente, y convienen en los puntos siguientes:

1. El presente Tratado, y sin perjuicio de las estipulaciones de la seccion 2 del Artículo precedente, permanecerá en plena fuerza y vigor por el termino de veinte años contados desde el día del canje de las ratificaciones; y si doce meses antes de expirar el termino de veinte años estipulados arriba, ninguna de las Partes Contratantes notificare á la otra su intencion de reformar alguno ó todos los Artículos de este Tratado, continuará siendo obligatorio dicho Tratado para ambas partes mas allá de los citados veinte años, hasta doce meses despues de que una de las partes notifique su intencion de proceder á la reforma ó cesacion.

2. Las estipulaciones de este Tratado podrán extenderse á cualquiera confederacion de Estados Republicanos de que Nicaragua quiera hacer parte voluntariamente, ó con que de la misma manera quiera identificarse.

3. Si alguno ó algunos de los ciudadanos de una ú otra parte infringieren

Articles of the Treaty, such citizens shall be held personally responsible for the same, and the harmony and good correspondence between the nations shall not be interrupted thereby; each party engaging in no way to protect the offender or sanction such violation.

4. If, unfortunately, any of the Articles contained in this Treaty should be violated or infringed in any way whatever, it is expressly stipulated that neither of the two Contracting Parties shall ordain or authorize any acts of reprisal, nor shall declare war against the other on complaints of injuries or damages, until the said party considering itself offended shall have laid before the other a statement of such injuries or damages, verified by competent proofs, demanding justice and satisfaction, and the same shall have been denied, in violation of the laws of international right.

ARTICLE XXXVII.

The present Treaty of Peace, Amity, Commerce, and Navigation shall be approved and ratified by the President of the United States, by and with the advice and consent of the Senatethereof, and by the President of the Republic of Nicaragua, with the consent and approbation of the Congress of the same; and the ratification shall be exchanged, in the city of Washington, within eight months from the date of the signature thereof, or sooner if possible.

In faith whereof, we, the Plenipotentiaries of the United States of America and of the Republic of Nicaragua, have signed and sealed these presents, in the city of Leon, on the third day of September, in the year of our Lord one thousand eight hundred and forty-nine, and of the independence of the United States the seventy-third.

(Signed)

(L.S.) E. GEO. SQUIER.
(L.S.) HERM'DO. ZEPEDA.

alguno de los Articulos contenidos en el presente Tratado, dichos ciudadanos serán por ello personalmente responsables, y no se interrumpirá en su consecuencia la armonia y buena correspondencia entre las dos naciones, comprometiendose cada una á no proteger de modo alguno al ofensor, ni á sancionar semejante violacion.

4. Si, desgraciadamente, algunos de los Articulos contenidos en el presente Tratado fuesen en alguna manera violados ó infringidos, se estipula espresamente, que ninguna de las dos Partes Contratantes ordenará ó autorizará actos algunos de represalia, ni declarará la guerra contra la otra por queja de injurias ó perjuicios, hasta que la parte que se considere ofendida haya previamente presentado á la otra una esposicion de dichos perjuicios ó injurias, apoyadaron pruebas competentes, exigiendo justicia y satisfaccion, y esto haya sido negado con violacion de las leyes, y del derecho internacional.

ARTICULO XXXVII.

El presente Tratado de Paz, Amistad, Comercio y Navegacion será aprobado y ratificado por el Presidente de la República de Nicaragua, con acuerdo y consentimiento del Congreso de la misma; y por el Presidente de los Estados Unidos de America, con acuerdo y consentimiento del Senado de los mismos; y las ratificaciones serán cangeadas en la ciudad de Washington dentro de ocho meses contados desde el dia de la firma, ó antes si fuere posible.

En fé de lo cual nosotros los Plenipotenciarios de la República de Nicaragua y de los Estados Unidos de America, hemos firmado y sellado las presentes en la ciudad de Leon el dia tres de Setiembre en el año de nuestro Señor de mil ochocientos cuarenta y nueve.

(Firmado)

(L.S.) HERM'DO. ZEPEDA.
(L.S.) E. GEO. SQUIER.

No. 60.

Viscount Palmerston to Sir Henry Bulwer.

Sir,

Foreign Office, October 18, 1850.

WITH reference to your despatch of the 29th ultimo,* inclosing a copy of a letter which you have addressed to the United States' Secretary of State,

* No. 57.

calling his attention to the proposal which has been made to Her Majesty's Government by the Government of Costa Rica, that Great Britain and the United States should mediate jointly between Costa Rica and Nicaragua in the matter of the question respecting the boundaries of the two States, I have to state to you that Her Majesty's Government approve of the letter which you have addressed to Mr. Webster upon the above-mentioned subject.

I am, &c.

(Signed) PALMERSTON.

No. 61.

Viscount Palmerston to Sir Henry Bulwer.

Sir,

Foreign Office, October 25, 1850.

I TRANSMIT herewith copies of a letter and of its inclosures which I have received from the Admiralty, stating that an agent of the United States' Ship-Canal Company has been exciting the Nicaraguans and his own countrymen to take possession of Greytown, and that Commodore Bennett has considered it necessary to send Her Majesty's ship "Indefatigable" to protect Greytown against this threatened attack.

I have to instruct you to represent to Mr. Webster how much it would be to be lamented if any conflict should take place in regard to matters which the two Governments are preparing to settle amicably and satisfactorily.

I am, &c.

(Signed) PALMERSTON.

Inclosure 1 in No. 61.

Vice-Admiral the Earl of Dundonald to the Secretary to the Admiralty.

Sir,

"Wellesley," at Halifax, October 1, 1850.

I TRANSMIT herewith, to be laid before the Lords Commissioners of the Admiralty, a copy of a letter which I received yesterday by a merchant-vessel from Commodore T. Bennett, at Jamaica, dated the 6th ultimo, with its inclosure from Commander A. G. Bulman, of Her Majesty's sloop "Persian," dated at Greytown, Mosquito, the 25th August, reporting the arrival of the "Bermuda" schooner, and that an attack upon the town by the Nicaraguans was anticipated, in consequence of which the Commodore had dispatched Her Majesty's ship "Indefatigable" to Greytown, in the hope that the presence of a ship of her force would effectually check any hostile demonstrations.

I am, &c.

(Signed) DUNDONALD.

Inclosure 2 in No. 61.

Commodore Bennett to Vice-Admiral the Earl of Dundonald.

(Extract.)

"Inaam," at Port Royal, September 6, 1850.

I HAVE the honour to inclose herewith the copy of a letter from Commander Bulman, of Her Majesty's sloop "Persian," by which your Lordship will see what is going on at Greytown and the apprehension there is of its being attacked by the Nicaraguans, instigated thereto by certain Americans, who are now intriguing, it is supposed, to obtain possession of that part of the Kingdom of Mosquito.

Under the circumstances I have thought it right to send the "Indefatigable" to that place for a short time, and I have no doubt the appearance of a ship of

war of her magnitude will have considerable effect upon the Nicaraguans and their coadjutors.

The "Persian" having had a great number of her crew sick I have directed Captain Smart to send her to sea for a few days while he remains at Greytown, in order to recruit the health of her men, and to permit her to go to Corn Island for refreshments for her crew, there being no vegetables of any description to be obtained at Greytown.

I have limited the stay of the "Indefatigable" at Greytown to a fortnight, unless any unforeseen circumstance should make it necessary to prolong her stay there.

I shall send this letter by the first American steam-ship to the care of Her Majesty's Consul at New York, to be forwarded to Halifax by the first conveyance.

No. 62.

Sir Henry Bulwer to Viscount Palmerston.—(Received October 28.)

(Extract.)

Washington, October 10, 1850.

THE late Agent of the United States in Nicaragua, Mr. Squier, has been asserting lately in positive terms, that at the time when Her Majesty's Government professed to have no intention of taking Costa Rica under British protection, Mr. Chatfield negotiated a Treaty, approved of by your Lordship, for extending the protection of Great Britain over the State in question.

I deemed it better, therefore, to write Mr. Webster a few lines, a copy of which I have the honour to inclose to your Lordship, forwarding him a copy of the real Treaty negotiated by Mr. Chatfield.

As Mr. Squier has alluded to a note written by me to Mr. Clayton, on the 29th April last, containing the opinions of Her Majesty's Government, which your Lordship wished me to make known to the late Secretary of State, as to the establishment of a British Protectorate in Costa Rica, I have thought it as well to take the present opportunity of placing on record the circumstances under which that communication was written.

Inclosure in No. 62.

Sir Henry Bulwer to Mr. Webster.

(Extract.)

British Legation, October 8, 1850.

ON the 29th of April last I made a communication to Mr. Clayton with respect to a Treaty which Mr. Clayton had been informed that the British Consul-General at Guatemala had made with Costa Rica for taking that Republic under British protection.

This communication was made by me to Mr. Clayton, under the following circumstances:—

It had been stated by the two Governments of Great Britain and the United States, in the month of November last, that neither wished to obtain any increase of influence or dominion in Central America; and Mr. Clayton and myself were negotiating a Treaty between the two Governments on this basis;—a report, however, arrived in this country during the negotiation referred to, and in contravention of the principle just stated, to this effect, viz., that Mr. Chatfield had just made a Treaty with Costa Rica, and that such Treaty took that State under the protection of Great Britain.

Mr. Clayton, therefore, asked me, very naturally, and in a perfectly friendly manner, whether I believed that Mr. Chatfield had made such a Treaty as the one described. I stated that I did not; and I informed Her Majesty's Government of the nature of the inquiry that had been made of me, and of the answer which I had given to it.

Lord Palmerston answered my communication, by approving of the answer

to which I have alluded, and futhermore instructed me to inform the United States' Government in reference to the particular subject that had been mooted between Mr. Clayton and myself, what the views of the British Government really were, which I did in my note of the 29th of April last, in the words of the instructions I had received.

You will see, by this statement, that the inquiry of Mr. Clayton was conceived in the same spirit as the reply that was given to it; and that the object of the communications which passed between us was to destroy an erroneous impression, any misunderstanding concerning which might have tended to defeat the general and amicable arrangement which we were then endeavouring to carry out with respect to the policy of Great Britain and the United States in Central America.

I need hardly say, Sir, that the information I gave your predecessor was strictly correct; but since this fact has been publicly denied by your late Agent in Nicaragua, who, on the contrary, asserts and maintains that Mr. Chatfield did make a Treaty with Costa Rica, taking that State under its protection, I hereby furnish you with a copy of the Treaty which Mr. Chatfield really made and which was approved of by Her Majesty's Government; and you will see, therefore, that it is purely and simply an ordinary Treaty of Commerce, such as independent States make with each other, and does not contain one word relative to British protection, or that can be construed in any way into an engagement to extend such protection to Costa Rica.

No. 63.

Viscount Palmerston to Sir Henry Bulwer.

Sir,

Foreign Office, October 28, 1850.

I HAVE received your despatch of the 29th ultimo,* reporting your conversation with Mr. Webster respecting the territorial questions which are now pending in regard to Central America, and I have to acquaint you that Her Majesty's Government entirely approve the course which you have pursued and the language which you have held upon those matters.

It seems advisable that the British and the United States' Governments, in settling these various questions connected with Central America and with the projected Canal, should look rather to permanent interests and general considerations than to the particular and local circumstances of the last two years.

The course of events for some time past has placed the Government of the United States in closer connection with Nicaragua than with any of the other Republics of Central America, while, on the other hand, the British Government has been thrown into more friendly relations with Costa Rica; but both the British and the United States' Governments are too well acquainted with the character and habits of these Spanish-American nations to found any permanent system of policy upon partialities and preferences which have arisen from temporary causes and from the accidental influences of men enjoying momentary power in these small States. The Government of Nicaragua had an object to carry against the Government of Great Britain, and, conscious of their own weakness, they tried by professions of unbounded devotion to engage the United States to become their champion in the quarrel. The Government of Costa Rica were in dread of attack from their neighbours in Nicaragua, and were suspicious of the designs of the United States, and they sought assistance and protection from Great Britain; but notwithstanding all this, it would be perfectly possible that a short time hence the feelings of these two Central American States might be entirely altered, and that, by changes of men and of circumstances, the Government of Nicaragua might give just cause of complaint to the United States, and the Government of Costa Rica might act oppressively towards British subjects.

If then we take a large and unprejudiced view of the arrangements which would be best calculated to carry fairly into effect the stipulations of the Treaty lately concluded between Great Britain and the United States, and to secure in the best manner the execution and well working of the Canal, it would seem that

we should be led to the conclusion that it is necessary that the sea-port towns which will rise into considerable importance at each end of the Canal, should be placed under the sovereignty of some Central American State capable, by its administrative organization and by the proximity of its seat of Government, to provide efficiently for the maintenance of peace and good order, and for the proper administration of justice in each of those towns. Now, geographical as well as political considerations seem to point out the Government of Nicaragua, whose capital is Leon near the Pacific, as the proper guardian of the western outlet of the Canal, and the Government of Costa Rica, whose capital is San José, on the Atlantic side of the Isthmus, as the guardian of the eastern outlet; and many considerations might be suggested which would tend to show that it might be more advantageous to the general interests of those nations who are to make use of the Canal, that both ends of it should not be under the control of one and the same South American Government.

It is probable that the real interests of Nicaragua would be better consulted by settling in her favour, questions of disputed territory on the western side of the Isthmus, than by giving her occupation of a port on the eastern side, and the Government of Costa Rica would no doubt acquiesce in any fair and reasonable arrangement which Great Britain and the United States might propose to the two Parties on these matters.

I am, &c.
(Signed) PALMERSTON.

No. 64.

Viscount Palmerston to Sir Henry Bulwer.

Sir,

Foreign Office, October 28, 1850.

I HAVE received your despatch of the 29th ultimo,* and I have to acquaint you that Her Majesty's Government approve the observations contained in the memorandum which you have communicated to Mr. Webster with reference to Mr. Squier's Treaty with Nicaragua.

Upon a general view of this matter it is to be observed that the Treaty negotiated by Mr. Squier was suggested by feelings of suspicion and hostility towards Great Britain on the part of the United States, and by a desire, which those feelings inspired of counteracting the supposed designs of England by obtaining an exclusive preference for the United States.

The United States' Agent imagined that the proceedings of Great Britain in regard to Mosquito and Greytown indicated an intention to establish territorial possession in Central America, and thereby to shut out the United States from that which appeared to be the best line of communication across the Isthmus from sea to sea.

The general proceedings of Mr. Squier and the Treaty which he concluded were all conceived in that spirit of hostility which those erroneous impressions had created.

Those impressions have now been removed, not only by the frank explanations and declarations of Her Majesty's Government, but by the Treaty of the 19th of April. That Treaty was conceived in a totally different spirit; it has become the pledge of mutual confidence between the two Governments, and has dispelled their reciprocal distrust. It is an assurance for equality of rights, advantages, and privileges for the people of the two countries in regard to the passage across the Isthmus; and it puts an end to all rivalry for exclusive or preferential conditions.

It is, moreover, a bond of harmony between the two countries in regard to territorial questions between the several States of Central America, and is therefore incompatible with any engagements which should fetter the discretion of either of the two Governments by binding either of them to take part with one or other of those States in regard to such questions.

The United States' Government will no doubt view these matters in this light, and will so shape and modify its engagements with Nicaragua, if it should deem it necessary at the present moment to enter into any, as to render such

* No. 59.

engagements entirely conformable with the spirit as well as with the letter of their Treaty with Great Britain, and so as to render it possible for other States to enter, if they should think fit, into similar Conventions.

I am, &c.
(Signed) PALMERSTON.

No. 65.

Viscount Palmerston to Sir Henry Bulwer.

(Extract.)

Foreign Office, November 1, 1850.

I HAVE received your despatch of the 10th ultimo, and I have to acquaint you that Her Majesty's Government approve the letter which you addressed to Mr. Webster on the 8th ultimo, contradicting the statement that Great Britain has concluded a Treaty taking the Republic of Costa Rica under her protection.

No. 66.

Sir Henry Bulwer to Viscount Palmerston.—(Received December 2)

My Lord,

Boston, November 14, 1850.

CONFORMABLY with the instructions contained in your Lordship's despatch of 25th October, I had some conversation yesterday with Mr. Webster, in regard to the conduct of an agent of the United States' Canal Company, who, according to the representations which have reached your Lordship, has been endeavouring to excite the Nicaraguans and his own countrymen to take possession of Greytown.

Mr. Webster assured me that he himself regretted, as much as your Lordship, any such proceedings if they had really occurred, of which he was ignorant; and added that I might feel satisfied that nothing of the kind should receive any countenance from the United States' Government.

I have, &c.
(Signed) H. L. BULWER.

No. 67.

Sir Henry Bulwer to Viscount Palmerston.—(Received December 2.)

My Lord,

Boston, November 18, 1850.

I HAVE the honour to inform your Lordship that I communicated verbally to Mr. Webster the substance of your Lordship's despatch of the 4th October, with respect to fixing at twenty-five nautical miles, the limits within which vessels traversing the Central American Ship-Canal should enjoy exemption from blockade, detention, &c.; and Mr. Webster stated to me that the proposal appeared to him a fair one; adding, however, that on his return to Washington, and after receiving a written communication from me on the subject, he would give me a more decided answer with respect to it.

I have, &c.
(Signed) H. L. BULWER.

No. 68.

Sir Henry Bulwer to Viscount Palmerston.—(Received December 2.)

(Extract.)

Boston, November 18, 1850.

HAVING been lately informed by Mr. Chatfield, Her Majesty's Chargé d'Affaires at Guatemala, that the American flag hoisted last spring by Mr. Squier on Tigre Island, in token of the cession of that island to the United States, continued to be displayed there, notwithstanding the disavowal by the Honduras

Legislature of the Treaty by which Tigre Island was temporarily ceded to the United States; and notwithstanding the assurance I received from Mr. Clayton, that he had himself disapproved of the said Treaty; I mentioned this circumstance to Mr. Webster, who promised me that the matter should at once be settled, and orders sent out for the removal of the American flag from the island in question.

I took this opportunity of speaking generally to Mr. Webster as to the advisability of finally settling all matters still pending in relation to the differences between Nicaragua, Costa Rica, and Mosquito, and the final position of Greytown; and Mr. Webster stated to me that he was only waiting, in order to do so, to see whether the Nicaraguans sent an agent, as they had said they would, to this country; that if they did so, he should prefer arranging all pending questions with them here; but if they did not, he should at once send an agent for that purpose to Nicaragua; and that at any rate it was his desire to contribute as far as lay in his power to a general settlement of all questions connected with the Canal, to which the Treaty of the 19th April refers; and the relative condition of the different Central American Powers.

No. 69.

Viscount Palmerston to Sir Henry Bulwer.

Sir,

Foreign Office, January 22, 1851.

REPORTS having reached Her Majesty's Government by which it appears that the Government of Costa Rica apprehends that the Government of Nicaragua may have recourse to hostile measures against Costa Rica, I have to instruct you to say to the United States' Secretary of State that as the Government of the United States is, equally with Her Majesty's Government, desirous that peace should be maintained in Central America, Her Majesty's Government trusts that the United States' Government will exert its influence with the Government of Nicaragua to prevent it from making any hostile attack on Costa Rica.

I am, &c.

(Signed) PALMERSTON.

No. 70.

Viscount Palmerston to Sir Henry Bulwer.

(Extract.)

Foreign Office, January 28, 1851.

WITH reference to my despatch of the 22nd instant, respecting the hostile designs of the Government of Nicaragua against Costa Rica, I have to instruct you to urge the United States' Government to concur with that of Great Britain in endeavouring to maintain peace in Central America.

You will point out to Mr. Webster that there can be no subjects to dispute between different States in that country which could not be susceptible of amicable adjustment by the friendly good offices of Great Britain and the United States; and that it would be much to be lamented if at the moment when England and the United States have concluded a Treaty, the proposed object of which is to make Central America the seat of a great work dedicated to commerce and destined to bind nations together by the ties of peaceful intercourse, an outbreak of bad passions should be allowed to overspread the land with the calamities of war.

You will add that it is well known that at the present moment the influence of the United States is all powerful in Nicaragua, and that Her Majesty's Government hope and trust that that influence may be exerted to prevent hostilities from taking place.

No. 71.

Sir Henry Bulwer to Viscount Palmerston.—(Received March 24.)

(Extract.)

Washington, March 10, 1851.

I CALLED on Mr. Webster on the 26th ultimo, and read to him your Lordship's two communications of January 22 and 28, relative to the differences between Nicaragua and Costa Rica, and the desire of Her Majesty's Government that the United States' Government should use its influence with Nicaragua to prevent hostilities taking place between the two above-mentioned Central American States.

Mr. Webster assured me that any influence he could use would be exercised in a spirit of peace.

No. 72.

Sir Henry Bulwer to Viscount Palmerston.—(Received May 19.)

My Lord,

Washington, May 5, 1851.

AS I understand that Mr. Webster is about to take up the question of Central America for the purpose of coming to some definite understanding with M. Marcoleta, the Nicaraguan Minister, with respect to a Treaty of Commerce in lieu of that negotiated by Mr. Squier with the Government of Nicaragua, I have thought it as well to state to M. Marcoleta, as an additional inducement to him to frame such a reasonable Treaty of Commerce as all nations could agree to, that I should be prepared in such case to enter into a negotiation with him for the purpose of concluding a Commercial Treaty with him in behalf of Her Majesty's Government, which I trust your Lordship will consider I was authorized to say from the tenour of your Lordship's despatch of May 10 of last year.

I have, &c.

(Signed) H. L. BULWER.

No. 73.

Viscount Palmerston to Sir Henry Bulwer.

Sir,

Foreign Office, May 22, 1851.

WITH reference to your despatch of the 5th instant, I have to acquaint you that Her Majesty's Government approve of your having stated to M. Marcoleta that if the new Treaty between Nicaragua and the United States should contain such reasonable stipulations as all nations could concur in, you would be prepared to enter into negotiations with him for the purpose of concluding a Commercial Treaty between Great Britain and the States of Nicaragua.

I am, &c.

(Signed) PALMERSTON.

No. 74.

Sir Henry Bulwer to Viscount Palmerston.—(Received June 2.)

(Extract.)

Washington, May 19, 1851.

ALTHOUGH I have had different conversations with Mr. Webster respecting the different points yet unsettled in regard to the Convention of the 19th of April; the Treaty which this Government proposes to make with Nicaragua; the transfer of Greytown; and the view which both Governments might take respecting the disputes between the different Central American Governments: his mind and time have been so occupied with a variety of other matters that he has frankly confessed to me that he has been unable as yet to give

that full attention to these subjects which would enable him to make what he should consider a satisfactory proposal concerning them.

Certain points have, however, been verbally settled between us :

1. That this Government will do everything in its power to dissuade the different Central American Governments from waging war upon each other.

2. That it will be willing to act with us in any question which may be referred to us for arbitration by disputing parties amongst those States. And,

3. That in the Treaty to be made with Nicaragua he will not recognize the exclusive right of Nicaragua over the San Juan river, nor make more than a Commercial Treaty with that Government.

I have read to Mr. Webster different despatches from your Lordship having reference to these matters ; he has recognized in them all a fair and liberal spirit which he is prepared to meet in a similar spirit ; but the most difficult as well as the paramount point to decide, and without a decision on which I fear that the difficulties with respect to Central America are rather adjourned than arranged, I have not been able to advance towards any satisfactory issue—I mean Greytown.

Were the Government of Nicaragua willing to agree to such an arrangement as that of placing Costa Rica in possession of this town, in consideration of other concessions to be made to it in the territory elsewhere in dispute between it and Costa Rica, I am not inclined to think that Mr. Webster or the United States' Government would feel any objection thereto. Indeed, Mr. Webster has at different times, for his own part, not seemed adverse to this mode of settlement : but it is now clear that Nicaragua will, from its jealousy of Costa Rica, treat such a proposition with even less favour than the present possession of Greytown by the Mosquitos, under the protection of Great Britain ; and, therefore, the United States' Government, which considers itself more or less pledged by the acts of its different agents, will not, I feel certain, come to any understanding with Her Majesty's Government which would have for its object the placing of Greytown in the hands of the Costa Ricans.

A plan which suggests itself to me would be as follows, that Greytown should be conceded to Nicaragua :

1. On the condition of making some payment or pension to the Mosquito Government.

2. On the condition of not molesting or in any way disturbing the Mosquitos in the possession of their remaining territory.

3. That it should concede to Costa Rica the southern bank of the River San Juan, from a point named down to the port of San Juan.

4. That it should agree to some arrangement as to the disputed territory of Guanacaste, either by the cession of the whole of the same to Costa Rica, or of a part thereof, or by the reference of the matter to arbitration. Any other conditions which suggested themselves to your Lordship might be added.

Should your Lordship, under all the circumstances, be disposed to consider favourably this suggestion, the course which, after some consideration, I should be disposed to advise, would be a new Treaty, supplementary to that of the 19th of April, with Mr. Webster, settling first the distance from the two ends of the proposed Canal, at which, in case of war, neutrality should be observed ; declaring next that the two Governments had agreed to such and such terms with regard to Greytown, and would do their utmost to see them carried into execution ; and lastly, providing that in all cases where the Central American States seemed disposed to enter into unnecessary quarrels amongst themselves, thereby interfering with the purposes for which the Canal is to be established, the two Governments (Great Britain and the United States) should interpose for the purpose of preventing such wars and adjusting in a fair and equitable manner the differences that had occurred between the States in question.

It appears that Costa Rica and Guatemala are willing to make a request for such mediation, and I have little doubt that the other Governments of Central America would concur in this request, if so advised by the United States, and that they saw that there was really a good understanding and cordial alliance established between Great Britain and the United States with respect to Central America.

No. 75.

Viscount Palmerston to Sir Henry Bulwer.

(Extract.)

Foreign Office, June 25, 1851.

HER Majesty's Government have had under their consideration your despatch of the 19th ultimo; and I have to state to you, in reply, that Her Majesty's Government would not be averse to agree to the arrangement suggested by you, whereby, under certain conditions, Greytown would be ceded to Nicaragua, if there should be found to be insurmountable difficulties to prevent the cession of Greytown to Costa Rica, as originally proposed by Her Majesty's Government.

In such case the arrangement would be as follows:—

1. The United States would conclude with Nicaragua a simple Treaty of Commerce, which should contain no stipulations, engagements, or declarations as to the territorial rights or limits of Nicaragua.

2. Great Britain would conclude with Nicaragua a Treaty, by which Great Britain, on behalf of Mosquito, would cede to Nicaragua, Greytown, and a definite district adjoining to it, in consideration of the payment of a sum of money to be agreed upon, the amount of which should be stated in the Treaty; and it would be best that this should be a sum of money to be paid down at once, rather than an annual payment, because an annual payment might be unpaid, and would thus become a frequent cause of dispute between Mosquito and Nicaragua, and of consequent reference to the British Government.

3. Nicaragua should engage not to molest Mosquito; and if possible the inland boundary between those two States should be described in the Treaty.

4. The southern bank of the St. John should be acknowledged to belong to Costa Rica, as proposed in your despatch.

5. The disputed questions between Nicaragua and Costa Rica on the Pacific should be settled favourably to Costa Rica.

6. Greytown should be a free boundary port. The duties on exporting from thence into the interior should never exceed a fixed amount, say 5 per cent.; and the merchants, goods, vessels and trade of all the States of Central America should have access to and the use of the port upon the same terms and conditions as the merchants, goods, vessels, and trade of Nicaragua.

No. 76.

Sir Henry Bulwer to Viscount Palmerston.—(Received July 14.)

(Extract.)

Washington, June 30, 1851.

I HAVE the satisfaction of informing you that Mr. Webster has, as I understand, just concluded a Commercial Treaty with M. Marcoleta, the Nicaraguan Minister, from which are excluded all the objectionable points of the Treaty entered into by Mr. Squier.

I am now negotiating with Mr. Webster respecting the other points to be arranged with regard to Central America.

No. 77.

Sir Henry Bulwer to Viscount Palmerston.—(Received August 11.)

(Extract.)

Washington, July 28, 1851.

I INFORMED your Lordship some time ago that M. Marcoleta was about to sign, on the part of the Nicaraguan Government, a Treaty of Commerce with Mr. Webster, from which Treaty all the objectionable passages which were to be found in Mr. Squier's previous arrangement were to be expunged.

I informed your Lordship also at the same time that M. Marcoleta stated that he was desirous to sign a similar Treaty with myself in regard to the future commercial relations to be established between Great Britain and Nicaragua,

and as Mr. Webster and myself had almost come to a definite agreement with respect to the disposition of Greytown, and the general policy to be pursued between Great Britain and the United States in respect to Central America, it appeared to me almost certain that by this time I should be able to announce to your Lordship the satisfactory termination of an affair which has been so much discussed and so long procrastinated.

I found however, somewhat to my surprise, a sudden change, not long after this, come over M. Marcoleta's mind, and he expressed himself unwilling to sign any Commercial Treaty with Great Britain or even with the United States, unless something respecting Greytown and the Mosquito territory was at the same time settled.

In the same manner Mr. Webster, though still expressing the opinions he had expressed before, seemed more or less indisposed to act upon them.

I did not deem it advisable to press M. Marcoleta upon a point which was of more consequence to his Government than to that of Her Majesty. I was however anxious that Her Majesty's Government and that of the United States should agree in writing as to their own views in respect to the matter, which was of the most pressing importance to arrange, viz., the terms on which the Government of Her Majesty should negotiate with that of the Mosquitos, for the purpose of making over Greytown and a certain territory thereto adjoining, to some Central American State.

At Mr. Webster's desire I accordingly drew up a memoir expressing the opinions to which a discussion of this matter had conjointly brought us; and to this memoir he at first seemed disposed that we should both subscribe our names.

The altered conduct of M. Marcoleta, however, or some other motive, disinclined him finally to this course.

I then thought of another, which was, perhaps, as good as any that could be adopted, and to this he assented.

My proposal was, that a meeting should take place between M. Marcoleta, M. Molina, Mr. Webster, and myself, and that we should there frankly expose before each other what our separate views were, and see whether we could not, as the result of a conversation, come at once to some agreement.

This interview took place on the 11th of this month. I will not trouble your Lordship with a detailed statement of all that there occurred; suffice it to say, that, finding it utterly impossible to enter even upon the consideration of any arrangement which made over Greytown to Costa Rica, I told Mr. Webster that I would consent to such a Convention as that which your Lordship indicated to me in your last instructions upon this subject.

M. Molina, on the part of Costa Rica, fully assented to my proposition.

M. Marcoleta dissented; and gave in a proposition of his own which I here inclose.

This proposition I in my turn refused, as unacceptable.

Mr. Webster then spoke; he said that he could not urge Her Majesty's Government to accept M. Marcoleta's offer, which deferred matters to a long protracted and indefinite issue; and the bent of his other arguments was to show that, though there might be some little objections to be made, here and there, to the plan I had suggested, it was, upon the whole, such a one as it was for the interests of Nicaragua to accept. "Let me, however," he added, "be understood clearly; the policy of the United States' Government is to take no active part in any question which does not immediately concern its own peculiar interests; the only immediate interest of the United States' Government here is the construction of a canal across the Isthmus upon such terms as would be fair to American commerce. The occupation of Greytown is so far indirectly connected with this question as to give us a concern in it, and inspire us with a friendly desire to settle amicably all differences about it. But it does not so immediately and directly affect us as to make us take any active part either for or against the different claimants. I do not urge you, therefore, M. Marcoleta, either to accept or to reject any particular conditions. I can only give you such counsel as you may wish to receive from me, and inform you precisely as to the position in which I consider that my Government stands in regard to yours."

On M. Marcoleta's observing that it was, at all events, satisfactory for him to hear what the precise views of the United States' Government were,

Mr. Webster said, "Have you powers to go beyond the proposition which you have now made? If you have such powers we may talk over the matter further and see what can be done; if you have not, you had better try to obtain them."

M. Marcoleta said he had not powers to go further than he had done, but that he should inform his Government of what had taken place, and endeavour to obtain new obstructions.

Mr. Webster then observed, that the point which struck him as the one of most difficulty was, the extent of the concessions to be made to Costa Rica if Nicaragua received Greytown.

On this he seemed to think that M. Molina and Marcoleta might come to some compromise, and he advised them to talk that portion of the subject over together. M. Molina seemed to think that his Government might possibly make the sacrifice of a debt due to it from the State of Nicaragua were Guanacaste permitted to remain a portion of Costa Rica. But he was unwilling to admit that Costa Rica would make any further sacrifice.

I learn that M. Marcoleta means to proceed himself to Nicaragua in order to obtain such authority as he deems necessary to bring this affair to a conclusion. But, at all events, it is likely to remain in abeyance for two or three months.

Inclosure in No. 77.

Propositions of the Minister of Nicaragua to the Government of Great Britain and of the United States.

1. THE devolution to Nicaragua of the port of San Juan.
2. To submit to the decision of arbitrators the question of boundaries that exists between Nicaragua and Costa Rica; but the latter shall have in the meanwhile the right of the free navigation of the waters of the River San Juan, with sailing vessels between this port and the mouth of the River Serapiqui.
3. The arbitrators shall be the United States and England, and in case of appeal or discord Spain and Belgium shall be requested to decide.
4. The Government of Nicaragua promises to declare as free port that of San Juan, and any other on the Pacific which it should be judged convenient for the greater facility of the interoceanic communication.
5. Nicaragua shall celebrate a Treaty of Peace, Friendship, and Commerce, with the Government of Her Britannic Majesty, in whose preamble, or in any other of its Articles, shall be declared the regret that inspires the two High Contracting Parties, that the character and expression of their relations till this day have not been such as it would have been expected between two nations and two friendly Governments; and they will promise each other that henceforth they will keep the most benevolent relations.

Washington, July 12, 1851.

(Signed) J. DE MARCOLETA.

No. 78.

Viscount Palmerston to Sir Henry Bulwer.

My Lord,

Foreign Office, August 15, 1851.

I HAVE received your despatch of the 28th ultimo, reporting what passed at your conference with Mr. Webster, M. Marcoleta, and M. Molina respecting Greytown and the affairs of Central America; and I have to acquaint you that Her Majesty's Government approve the course which you have taken with regard to this matter.

I am, &c.
(Signed) PALMERSTON.

No. 79.

Viscount Palmerston to Sir Henry Bulwer.

(Extract.)

Foreign Office, August 15, 1851.

I HAVE to state that it is not the intention of Her Majesty's Government that the Mosquito Government should retain territorial sovereignty over Greytown, after that port shall have been transferred to one of the States of Central America.

No. 80.

Sir Henry Bulwer to Viscount Palmerston.—(Received August 25.)

My Lord,

New York, August 12, 1851.

AS the two principal affairs on which my attention has been occupied since my arrival in this country have been, first, some commercial arrangement between Her Majesty's North American Provinces and this country; and, secondly, the amicable settlement of those questions in Central America which have arisen out of the project of making a canal-communication between the Atlantic and Pacific Oceans, by way of the Lake of Nicaragua and the River San Juan; and also out of the occupation of Greytown, at the mouth of the said river, by the King of the Mosquitos, the same town having been taken possession of in 1848, in the name of the aforesaid King, by Her Majesty's forces; I deem it as well at this moment, when I am about to quit my post on leave of absence, to observe to your Lordship that both these questions, which have been of considerable difficulty to treat, seem now placed on a satisfactory footing.

The United States' Secretary of State has assured me that the President will be prepared to recommend some general arrangement of commercial intercourse between Her Majesty's colonies in North America and the United States, on an early occasion, to Congress; whilst a Treaty having been made by me last year, in behalf of Her Majesty's Government, with the United States' Government, for the object of favouring the construction of the canal *vid* Nicaragua, by affording thereto the protection of Great Britain and the United States, the United States' Government has not ratified another Treaty, which had been previously made with Nicaragua, acknowledging the right of that State over Greytown; but, on the contrary, has declared to the Nicaraguan Minister at Washington that it is only willing to make a simple Treaty of Commerce, apart from all political considerations, with the State of Nicaragua; whilst the United States' Secretary of State has at the same time, as stated in my despatch of July 31, advised the Minister from Nicaragua to obtain such instructions from his Government as would allow of a friendly arrangement respecting Greytown between Great Britain and Nicaragua, and also settle other questions, which it is important to determine, between the Central American States in the neighbourhood of the proposed canal.

I have, &c.

(Signed) H. L. BULWER.

No. 81.

Viscount Palmerston to Sir Henry Bulwer.

(Extract.)

Foreign Office, September 5, 1851.

WITH reference to your despatch of the 12th ultimo, reporting the state of your negotiations with the Government of the United States respecting the commercial intercourse between Her Majesty's North American Provinces and the United States, and respecting the questions relative to Central America which have arisen out of the Treaty of the 19th of April, 1850, between Great Britain and the United States, I have the satisfaction of informing you that Her Majesty's

Government have entirely approved the manner in which you have conducted your negotiations with the United States' Government on these important matters.

No. 82.

Viscount Palmerston to Mr. Crampton.

(Extract.)

Foreign Office, September 5, 1851.

I HAVE to instruct you to take every fitting opportunity of saying that Her Majesty's Government still feel an unabated wish that a good commercial communication, either by canal or by railway, and open on equal terms to all the nations of the world, should be established between the Atlantic and Pacific; and you will state that Her Majesty's Government are most desirous of cooperating with the Government of the United States in affording for the construction of such communication any facilities which it may properly belong to the two Governments to give.

No. 83.

Mr. Crampton to Viscount Palmerston.—(Received December 15.)

(Extract.)

Washington, December 1, 1851.

I OBSERVE, with regret, that the resumption of negotiations under the mediation of Great Britain and the United States, for the settlement of the difficulties between Costa Rica and Nicaragua, seems likely to be still further deferred.

The Nicaraguan Minister has received no further instructions upon the subject; and the unsettled condition of Nicaragua renders it a matter of great uncertainty whether the terms of any arrangement which he might enter into now, would be adhered to by whatever party may succeed in holding possession of the Government of that country.

Neither M. Molina nor M. Marcoleta are now at Washington, but the former is expected in a few days.

No. 84.

Mr. Abbott Laurence to Viscount Palmerston.—(Received December 19.)

Legation of the United States,

138, Piccadilly, December 19, 1851.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, is directed by the President of the United States to call the attention of Viscount Palmerston, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, to an outrage committed on the United States' steam-ship "Prometheus," belonging to the American Atlantic and Pacific Ship-Canal Company, by the British brig of war "Express," at San Juan del Norte, in November last.

It appears that the "Prometheus" was under weigh at San Juan, with about 500 passengers, for the purpose of making a voyage to New York, when the city authorities of San Juan boarded her with a police force, and served a process of attachment on the ship and captain for 123 dollars, claimed by those authorities as port dues, which the captain refused to pay. Thereupon the "Express" immediately got under weigh, made sail for the steamer, and when within a quarter of a mile of her fired a round shot over her fore-castle, and a few minutes afterwards another shot over her stern, which passed so near that its force was distinctly felt by several persons on board. The captain of the steamer then sent a boat on board the brig to inquire the cause of the firing. The commander of the brig replied that it was to protect the authorities of Greytown in their demands, and that if the steamer did not immediately anchor, he

would fire a bombshell into her, and he ordered his guns to be loaded with grape and canister. The steamer then proceeded to the anchorage and anchored. The brig anchored very near her, and sent a boat on board with orders that the fires should be extinguished, and to say that an officer would be sent to see that this was done. The authorities then came on board, the amount demanded was paid under protest, and the steamer was permitted to proceed to sea. It further appears that the captain of the "Express" acted under the authority and by order of a Mr. Green, who claims to be the British Consul at San Juan.

The Government of the United States has learned of these proceedings with deep surprise and regret. It cannot consent to the collection of port charges at San Juan by British ships of war, or that their collection should be enforced by them. The President, immediately on receiving intelligence of these events, gave orders for the despatch of an armed vessel to San Juan. He has also caused the Undersigned to be instructed to inquire of Viscount Palmerston whether the captain of the "Express" acted pursuant to orders from Her Majesty's Government, and whether his course is approved?

The Undersigned is also directed to state that, if these questions shall be answered in the affirmative, the President will consider the proceedings as a violation of the Treaty of the 19th of April, 1850, by which Great Britain has stipulated not to make use of any protection which she may afford Nicaragua, the Mosquito Coast, or any part of Central America, for the purpose of assuming or exercising dominion over the same.

The Undersigned, &c.

(Signed)

ABBOTT LAURENCE.

Inclosure in No. 84.

Captain Churchill to the Editors of the "New York Express."

Gentlemen,

San Juan, November 21, 1851.

IN order to correct any misstatements that may be made of the circumstances of the English brig of war "Express" firing into the "Prometheus," I beg you to give the following statement an insertion in your paper:—

At 2 P.M. I went to my ship, under weigh to proceed to sea, having just received the last of our passengers from the "Pacific" steamer, including in all about 500. At this moment the city authorities of Greytown, constituted, as they stated, by the authority of the Mosquito King, came on board of the ship with a police force, and served a process of attachment on the ship and myself, for the amount of 123 dollars, claimed by the authorities for present and arrearage port dues, charged the ship, which we supposed to be illegally demanded, and had consequently refused to pay them, as I did in the present instance.

The port dues are made up from the right of the anchorage in the harbour by the captain of the ports, fees, and pilotage. I hove up my anchor and dropped down the harbour with the current, having alongside one of the river steamers, receiving from her the baggage of the passengers. The English brig of war laying a short distance from us immediately got under weigh, made sail for us, and when within a quarter of a mile from us, fired a round shot over the forecastle, not clearing the wheel-house over ten feet; in a few minutes another shot was fired, which passed over the stern so near that the force of the ball was distinctly felt by several passengers. I sent a boat on board of the brig to inquire the cause of their firing into us. The captain stated it was to protect the authorities of Greytown in their demands, and if we did not immediately anchor he would fire a bombshell into us, and ordered his guns to be loaded with grape and canister shot; at the same time our small steamer left us, and I proceeded under steam back to an anchorage and anchored. The brig stood up the harbour and anchored very near us, sent a boat on board of us with orders that our fires should be put out, and that an officer would be sent on board to see that the fires were extinguished. The authorities then

came on board, and, under the circumstances of the case, the amount demanded was paid under protest, and we were permitted to proceed to sea by the captain of the brig.

Respectfully, &c.
(Signed) HENRY CHURCHILL,
Captain, Steamer "*Prometheus*."

No. 85.

Mr. Crampton to Viscount Palmerston.—*(Received December 21.)

My Lord,

Washington, December 7, 1851.

I HAVE the honour to inclose the copy of a letter, with accompanying documents, addressed by the Agent of the North American Atlantic and Pacific Ship-Canal Company to the United States' Secretary of State, complaining of an alleged infringement of the rights of the Company, and an outrage committed upon the American flag by the Commander of her Majesty's ship "*Express*," in detaining a steamer belonging to the Company, and exacting the payment of port-dues at Greytown.

These papers have been communicated to me by Mr. Webster for my information, and without any accompanying representation from the United States' Government, it being intended to make such representation to Her Majesty's Government through the American Mission in London.

No information from Her Majesty's Consul at Greytown, or from any other official source, has reached me in regard to this matter.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 85.

Mr. White to Mr. Webster.

Sir,

New York, December 2, 1851.

I INCLOSE a resolution which was adopted by the Board of Directors of the Canal Company yesterday, by which I am requested to call your attention to the outrage recently perpetrated on our steam-ship "*Prometheus*," at San Juan del Norte, by Her Majesty's sloop of war "*Express*."

The circumstances are correctly stated in the letter of Captain Churchill. Of this Mr. Vanderbilt assures me, and he was on board the "*Prometheus*" at the time.

The captain of the "*Express*" acted under the authority and by the orders of Mr. Green, the English Vice-Consul at San Juan.

This Mr. Green is a British subject, a British official, and, by British appointment, the Regent, during the minority of the so-called "*Mosquito King*," He appoints all the officers at San Juan; and has, ever since the making of the Treaty of the 19th of April, 1850, and still does, exercise "*dominion over the Mosquito Coast*," by virtue of his office, and in obedience, as he declares, to instructions from the British Government.

That his "*occupancy*" of San Juan, and that of his subordinates, has been and still continues to be a distinct violation of the Treaty, I need not argue; and the continued exercise of "*dominion*" by him as a British Agent, acting under British authority, is a still more flagrant violation of it.

Is it too much to hope that satisfaction will be at once demanded for this unprovoked attack, and insisted on, as a violation of solemn treaty stipulations; and that Great Britain shall be notified to cease her "*occupancy*," and the exercise of her "*dominion*" over the Mosquito coast? (See Treaty, Article I.)

The "*Prometheus*" is our property, and is being used, as such property, to construct the canal. We are transporting by her, workmen, tools, engineers, &c., &c., and are using her for the transportation of passengers and freight, the money to be derived from which service we design to employ in the construction

of the Canal, which has already been commenced by the acts of survey, location, and the expenditure of large sums of money. (See Treaty, Article III.)

We respectfully ask that a man-of-war be immediately dispatched to San Juan del Norte, with instructions to the Commander thereof to protect our property and the lives of our citizens.

This we think we have the right to ask and expect, in our character as citizens; but especially have we the right under the Treaty in which our Government binds itself to protect our property from unjust detention, confiscation, seizure, or any violence whatsoever.

The 14th of October, 1850, Lord Palmerston instructed Mr. Green, the then Acting Vice-Consul at San Juan, not to interfere in any manner with our vessels; and the 1st of November, 1850, he further instructed the Acting Vice-Consul to make Greytown (San Juan del Norte) a free port.

We cannot, therefore, persuade ourselves that Mr. Green, in giving his order to the Captain of the "Express" to fire into the "Prometheus," or to detain her by force, acted in pursuance of instructions from his Government. This statement we think due to Lord Palmerston, who has always been disposed, as we well know, to forward our enterprise by all proper means. The insult, however, and the outrage, were given and perpetrated under the British flag, and by the direction of a British official; and to that Government we presume we must look, through the instrumentality of our own, for redress.

The insult to the American flag in its national character, you of course know too well how to resent, without suggestion from us; nor do we at all doubt your prompt action in the matter.

Very respectfully, &c.

(Signed)

J. L. WHITE,

Counsel to the Company.

Inclosure 2 in No. 85.

Resolution.

New York, December 1, 1851.

AT a meeting of the Board of Directors of this Company held this day, the following preamble and resolution were immediately adopted:

Whereas, the rights and privileges of this Company have been invaded and interfered with by the authorities of San Juan del Norte, and by the Commander of Her Britannic Majesty's naval forces in the harbour of that town, inasmuch as their steam-ship "Prometheus" has been fired at and her Commander threatened with further violence, in order, as protectors of His Mosquitian Majesty, to extort payment of port charges which have never previously been enforced, and which are not only in violation of the contract by which this Company exercise their exclusive rights of navigating the San Juan with steam-vessels, and also of the Convention, &c., between the United States and Great Britain, but also endangers the lives of passengers travelling in their vessels; therefore—

Resolved, That the counsel of this Company be requested to prepare an official letter, addressing the same, in their name, to the Secretary of State, and claiming the interference of this Government.

(Signed)

ISAC C. LEA, *Secretary,*
American Atlantic-Pacific Ship-Canal Company.

Inclosure 3 in No. 85.

Captain Churchill to the Editors of the "New York Express,"
November 21, 1851.

[See Inclosure in No. 84.]

No. 86.

Mr. Crampton to Viscount Palmerston.—(Received December 29.)

(Extract.)

Washington, December 15, 1851.

WITH reference to my despatch of the 7th instant, I have the honour to inclose an extract from a newspaper containing the copy of a resolution moved in the Senate by General Cass, and agreed to, requesting the President to furnish the Senate with information regarding an alleged outrage on the United States' flag, by the firing into and seizure of the American steamer "Prometheus" by a British vessel of war.

I have been informed by W. George Law, owner and contractor of the United States' mail line of steamers from New York to Chagres, that his vessels have been in the habit of touching at Greytown, and had always paid the harbour dues which have now been resisted by the "Prometheus," but which appeared to Mr. Law to be just and moderate, having been established by the municipal authorities of the place to cover considerable expenses incurred by them in buoying out and otherwise improving the harbour.

Inclosure in No. 86.

Resolution.

"Resolved,—THAT the President of the United States be requested to communicate to the Senate, if not inconsistent with the public interest, any information the Executive may have received respecting the firing into and seizure of the American steam-ship "Prometheus" by a British vessel of war, in November last, near Greytown, on the Mosquito Coast; and also what measures have been taken by the Executive to ascertain the state of the fact, and to vindicate the honour of the country."

No. 87.

*Earl Granville to Mr. Abbott Laurence.**Foreign Office, December 30, 1851.*

THE Undersigned, &c., has the honour to acknowledge the receipt of the note which Mr. Laurence addressed to Viscount Palmerston on the 19th instant, complaining of the proceedings of the captain of Her Majesty's brig-of-war "Express" on the occasion of the captain of the American Atlantic and Pacific Ship-Canal Company's vessel "Prometheus" refusing to pay certain harbour dues at the port of Greytown, Mosquito.

The Undersigned begs, in reply, to state that, in conformity with the advice which Her Majesty's Government gave to the Government of Mosquito when the Treaty of Washington of the 19th of April, 1850, was concluded between Great Britain and the United States, the Mosquito Government decided that the vessels and goods of all nations should without distinction be, from the 1st of January, 1851, exempt from the payment of all duties whatever at the port of Greytown. But the Town Council of the place, in order to raise a small revenue to provide for some few unavoidable expenses, resolved at one of their meetings that certain taxes and dues should be levied to supply in some measure the place of the revenue which would have been obtained if the customs' tariff had not been abolished.

This Council, which is composed of two Englishmen, two citizens of the United States, a Frenchman, and a native of Greytown, a highly intelligent merchant, accordingly passed a resolution by which certain small harbour dues, amounting on the whole to about 11 dollars on each vessel, were imposed on shipping frequenting the port of Greytown. Mr. Laurence will see, therefore, the above-mentioned harbour dues were not imposed by the advice of Her Majesty's Government.

With regard to the enforcement of those dues, the Undersigned begs to assure Mr. Laurence that the captain of the "Express" did not act on the occasion in question in consequence of any orders from Her Majesty's Government; and as far as Her Majesty's Government are at present informed, no report upon the subject having yet been received from Greytown, the captain of the "Express" appears to have exceeded his proper authority.

Her Majesty's Government may expect very shortly to receive, direct from the officers concerned, accounts of the transaction which forms the subject of Mr. Laurence's note, and Mr. Laurence shall thereupon receive a further communication. Mr. Laurence may in the meanwhile rest assured that it is far from the intention of Her Majesty's Government to authorise any proceeding at variance with the stipulations of the Treaty of Washington of the 19th of April, 1850, and that they most deeply regret any transaction which can be considered as an affront offered by any British officer or authority to the United States' flag.

The Undersigned, &c.

(Signed)

GRANVILLE.

No. 88.

Mr. Addington to the Secretary to the Admiralty.

Sir,

Foreign Office, January 1, 1852.

I AM directed by Earl Granville to inclose herewith a copy of a despatch* from Mr. Crampton, Her Majesty's Chargé d'Affaires at Washington, inclosing a copy of a letter which has been addressed to the United States' Secretary of State by the Agent of the American Atlantic and Pacific Ship-Canal Company, complaining of the proceedings of the captain of Her Majesty's brig-of-war "Express," on the occasion of the refusal of the captain of the American steam-vessel "Prometheus," which belongs to the above-mentioned Company, to pay certain dues at the port of Greytown. I am also directed to inclose a copy of a note† which has been received at this Department from Mr. Laurence, the American Minister at this Court, upon the above-mentioned subject; and also a copy of the answer‡ which Lord Granville has returned to Mr. Laurence's representations in regard to the late occurrence at Greytown. And I am to request that you will lay the inclosed papers before the Lords Commissioners of the Admiralty, and that you will move their Lordships to furnish Lord Granville with any report which they may receive from the captain of the "Express," in regard to this matter.

I am, &c.

(Signed)

H. U. ADDINGTON.

No. 89.

Earl Granville to Mr. Crampton.

Sir,

Foreign Office, January 2, 1852.

WITH reference to your despatch of the 7th ultimo, inclosing a copy of a letter which has been addressed to the United States' Secretary of State by the Agent of the American Atlantic and Pacific Ship-Canal Company, complaining of the proceedings of the captain of Her Majesty's brig "Express," on the occasion of the captain of the American steam-vessel "Prometheus," which belongs to the above-mentioned Company, refusing to pay certain harbour-dues at the port of Greytown, Mosquito; I inclose herewith, for your information, a copy of a note† which has been received at this Department from Mr. Laurence, the United States' Minister at this Court, upon the above-mentioned subject; and also a copy of the answer‡ which I have returned to Mr. Laurence's representations in regard to the late occurrence at Greytown.

I am, &c.

(Signed)

GRANVILLE.

* No. 85.

† No. 84.

‡ No. 87.

§ No. 86.

No. 90.

The Secretary to the Admiralty to Mr. Addington.—(Received January 3.)

Sir,

Admiralty, January 2, 1852.

I HAVE received and laid before my Lords Commissioners of the Admiralty your letter of the 1st instant, and its inclosures, on the subject of the complaint made by the Government of the United States of the proceedings of Commander Fead, of Her Majesty's brig "Express," towards the American merchant steam-vessel "Prometheus," at Greytown, in November last.

My Lords desire me to state, for the information of Earl Granville, that they have not received any other accounts of this transaction, and that the reports from Commander Fead have in the due course of the service been forwarded to Vice-Admiral Sir George Seymour, Commander-in-chief of the station, which has most probably occasioned the delay.

Their Lordships will forward any account as soon as they shall receive it; and, until they have the statement of Commander Fead before them, must suspend their judgment as to his conduct.

I am, &c.

(Signed)

W. A. B. HAMILTON.

No. 91.

Mr. Abbott Laurence to Earl Granville.—(Received January 2.)

United States' Legation, January 2, 1852.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, has the honour to acknowledge the receipt of the note addressed to him on the 30th December, by Earl Granville, Her Majesty's Principal Secretary of State for Foreign Affairs, relative to the firing upon the steam-ship "Prometheus," by the British brig-of-war "Express," in the harbour of San Juan de Nicaragua, and will not fail to transmit a copy of that note to the Government of the United States by the earliest opportunity.

The Undersigned regrets that Her Majesty's Government have not yet received official intelligence to enable them to give an unreserved disavowal of this act. He will await the further communication which Lord Granville promises, in the expectation that when Her Majesty's Government shall have received a report upon the subject from San Juan de Nicaragua, they will express their disapproval of the conduct of all British officers implicated in this affair.

The Undersigned, &c.

(Signed)

ABBOTT LAURENCE.

No. 92.

Earl Granville to Mr. Abbott Laurence.

Foreign Office, January 2, 1852.

THE Undersigned, &c., has had the honour to receive the note which Mr. Abbott Laurence, &c., has addressed to him under this day's date, in which in reply to the note of the Undersigned, dated 30th December, Mr. Laurence expresses his regret that Her Majesty's Government have not yet received official intelligence to enable them to give an unreserved disavowal of the acts of violence alleged to have been offered to the flag of the United States by the captain of the "Express."

The Undersigned has to assure Mr. Laurence that Her Majesty's Government shares the regret expressed by him, that Her Majesty's Government have not yet received that official information which would enable them to put an end to any further correspondence on this question; but it must be obvious to the United States' Envoy, that Her Majesty's Government could not officially disavow an act of which they had no official cognizance.

The Undersigned does not hesitate, however, to declare that if the circumstances of the transaction shall be shown by the reports which Her Majesty's Government may hereafter receive from their own officer to be such as they are described in the note of Mr. Abbott Laurence, Her Majesty's Government will at once disavow the acts of violence committed by the commander of the "Express."

The Undersigned, &c.

(Signed)

GRANVILLE.

No. 93.

Mr. Crampton to Viscount Palmerston.—(Received January 4, 1852.)

My Lord,

Washington, December 20, 1851.

WITH reference to my despatch of the 15th instant, inclosing the copy of a resolution moved in the Senate of the United States by General Cass, requesting the President to communicate to Congress such information as the Executive might have received respecting the firing into and detention of the American vessel "Prometheus" by a British vessel of war near Greytown, I have now the honour to inclose a copy of the answer of the President to that resolution, together with a copy of the instructions which have been sent to Commodore Parker, commanding the home squadron of the United States' navy, in regard to this matter.

I have, &c.

(Signed)

JOHN F. CRAMPTON.

Inclosure in No. 93.

Message of the President of the United States in relation to the alleged Outrage on the "Prometheus."

To the Senate of the United States,

I HAVE received a resolution of the Senate adopted on the 12th instant, in the following terms:—

"Resolved,—That the President of the United States be requested to communicate to the Senate, if not inconsistent with the public interest, any information the Executive may have received respecting the firing into and seizure of the American steam-ship 'Prometheus' by a British vessel of war, in November last, near Greytown, on the Mosquito coast; and also what measures have been taken by the Executive to ascertain the state of the facts, and to vindicate the honour of the country."

In answer to this request, I submit to the Senate the accompanying extracts from a communication addressed to the Department of State, by Mr. Jos. L. White, as counsel of the American Atlantic and Pacific Ship-Canal Company, dated the 2nd instant. This communication is the source of the information received by the Executive in relation to the subject alluded to, and is presumed to be essentially correct in its statements of the facts.

Upon receiving this communication, instructions, such as the occasion seemed to demand, were immediately dispatched to the Minister of the United States in London. Sufficient time has not elapsed for the return of any answer to this despatch from him, and in my judgment it would at the present moment be inconsistent with the public interest to communicate those instructions. A communication, however, of all the correspondence will be made to the Senate at the earliest moment at which a proper regard to the public interest will permit. At the same time instructions were given to Commodore Parker, commanding the home squadron, a copy of which, so far as they relate to the case of the "Prometheus," is herewith transmitted to the Senate.

(Signed)

MILLARD FILLMORE.

Washington, December 15, 1851.

Sir,

The President has learned that an English brig of war, the "Express," lying in the harbour of San Juan de Nicaragua, has recently fired upon the American steamer "Prometheus," while in the act of departure from that harbour, and compelled them to pay certain demands alleged to be port-charges, and claimed by persons professing to act under the authority of the local Government.

The particulars of the affair will be found in a letter from the agent of the "Prometheus," already published in the newspapers of New York, a copy of which is herewith transmitted.

Whatever may have been the merits of the question between the captain of the "Prometheus" and the authorities of Nicaragua, the United States acknowledge no rights in a vessel of the Government of Great Britain to exercise any police or supervision over American merchant-vessels in Nicaragua or elsewhere, out of British dominions.

On the contrary, the 1st Article of the Convention between the United States and Her Britannic Majesty, relative to Nicaragua, signed April 19, 1850, of which a copy is also inclosed, expressly excludes each of the Contracting Parties from assuming or exercising dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America.

You will, therefore, as soon as the "Saranac" shall be in all respects ready for sea, proceed in her to San Juan de Nicaragua, for the purpose of affording protection to American commerce and interests on that coast against any such interference for the future, and on your arrival there you will notify the officer in command of Her Britannic Majesty's Naval Forces in that harbour, or on that coast, of the object of your visit. At the same time you will assure the local authorities of the port, that the United States will not justify the non-payment of any lawful and proper duties on the part of their merchant-vessels, and that they desire the most friendly relations with the Government of Central America, and will faithfully maintain on their part the stipulations of the Treaty already referred to.

* * * * *

I am, &c.

(Signed) WILL. A. GRAHAM.

To Commander F. A. Parker,

Commanding United States' Home Squadron, Pensacola.

No. 94.

Mr. Crampton to Viscount Palmerston.—(Received January 4, 1852.)

My Lord,

Washington, December 20, 1851.

I HAVE the honour to inclose the copy of a letter signed by certain American citizens, inhabitants of Greytown, in regard to the alleged outrage committed against the American flag by the firing into and detention of the "Prometheus" steamer by one of Her Majesty's ships of war, which formed the subject of my despatches of the 7th and 15th instants.

It appears from this statement that the port-dues, the payment of which were resisted by the owners of the "Prometheus," were of moderate amount, and had been cheerfully paid by other American vessels frequenting the harbour of Greytown.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure in No. 94.

Letter signed by American Citizens at Greytown, respecting the "Prometheus."

Greytown, San Juan de Nicaragua, December 5, 1851.

THE Port of San Juan del Norte (Greytown) is a free port; all articles imported or exported are free of duty. The city Government consists of a

Council, of which Mr. Green, the English Consul, is Chairman. The Council is composed of five members, exclusive of the chairman, and are chosen annually by general election of the citizens. The names of the present Council are Messrs. William Grey, H. L. Stevenson, A. Sigaud, S. Shepherd, J. Geddes. Messrs. Grey and Stevenson are Americans, M. Sigaud is a Frenchman, Mr. Shepherd is a native of this coast, and Mr. Geddes is a native of Scotland. Each member of the Council is, by right of office, a magistrate; and any Act, whether relating to the city or the harbour, must be approved by the Council before it can become a law. There is a regularly organized police force for the maintenance of order, or a city attorney to discharge the usual duties of that office, and a port captain and a port surgeon, whose duty it is to board all vessels entering the harbour.

All vessels entering the harbour are required to pay harbour-dues, except the English mail-steamers. These vessels are exempt because they bring and receive a mail to and from this place. The same privilege is offered to the steamers of any other country that will in like manner deliver and receive a mail to and from the countries from which they come.

The steam-ship "Prometheus" commenced her regular trips to this port in July last, in connection, by the transit-steamers on the river and lake, with the steamers from San Francisco at San Juan del Sur. The authorities of this place granted to the Company the privilege of occupying a certain portion of land on the opposite or north side of the harbour, for the purpose of fitting up the river steamers, discharging coal, &c. There appeared to be a disposition, on the part of the Government here, to render to the Company such facilities as might be in their power in establishing the route; and when the first steamer started on her first voyage up the river and grounded on a sand-bar opposite the town, the boats of the war-vessel "Bermuda," then lying in port, were promptly sent to her relief, and assisted in getting her off. Previous to the departure of the "Prometheus" for New York, the bill for port-charges was presented and payment refused, on the plea that the Company did not recognize the authorities, and consequently would not pay. This announcement was received with surprise and regret, as it was the wish of the authorities and citizens that a good understanding should exist between them and the Company. The "Prometheus" was permitted to depart, and made several trips, each time refusing to pay as before; at the same time all other vessels arriving and departing paid the regular charges without a murmur.

On the morning of November 21st the "Prometheus," then in port, and about to start for New York with a large number of passengers, among them Mr. Vanderbilt, President of the Canal Company, who had just returned from the Lake of Nicaragua, whither he had gone with the new lake steamer "Central America."

The usual bill of charges was presented, including those due on former occasions, and payment again refused. A warrant was then issued (the Council approving) for the arrest of the captain of the steamer for the debt. The captain of the port, with some policemen, went on board, and on serving the process the captain of the steamer resisted; on this the port captain, with his men, retired, at the same time giving notice that the steamer would not be permitted to proceed to sea until the debt was paid. In a few minutes after, the "Prometheus" was dropping down the harbour, and immediately the English brig of war "Express" got under weigh. One or two blank cartridges were fired. The steamer still continued dropping down; a round shot was then sent across the bow, and another across the stern from the brig. The steamer then returned to her place of anchorage. Mr. Vanderbilt came on shore and the debt was paid.

It is a matter of regret to the Americans residing in San Juan that such an occurrence should have taken place. Nearly one-half the improved property is held, and more than one-half the business is done, by Americans. For good order and for safety of life and of property, Greytown will compare favourably with any town in any country, and while Chagres has established an unenviable reputation, and San Juan del Sur and Virgin Bay are following the same track, Greytown, or San Juan del Norte, presents the singular contrast of good order and safety, whilst almost surrounded by Spanish-American anarchy.

There seems an anomaly in the fact that while the "Prometheus" recognized no authority in Greytown, they repeatedly called on the authorities to assist

them in quelling insubordination on board their vessels. It is but a short time ago that the captain of the "Prometheus" applied directly to the captain of the English brig of war in the harbour for assistance in the event of a difficulty with his passengers, which he expected would take place.

The Americans here deem the Mosquito question a matter to be settled between the Governments interested; and until that is done, in order to maintain the laws and give protection to citizens and strangers, that the usual port-charges, as well as all other taxes levied by consent of the Council, should be paid; and it may be here added that Americans in buying property, landed or otherwise, or accepting office under the Government, are not required to relinquish a single right they may possess as American citizens.

We, the Undersigned American merchants in Greytown, certify the foregoing statement to be correct, and should it be necessary you are at liberty to use our names in connection therewith.

Respectfully,
(Signed) HENRY L. STEPHENSON.
WM. DE FOREST.
WM. GREY.
P. F. MANCOROS.
JOS. V. PEREZ.
NICK. BOILVIN.
BENJAMIN CLINTON.

No. 95.

The Secretary to the Admiralty to Mr. Addington.—(Received January 9.)

Sir,

Admiralty, January 9, 1852.

WITH reference to my letter of the 2nd instant, I am commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl Granville, copies of a letter from Vice-Admiral Sir George Seymour, dated the 19th December last, and of its inclosures, relative to the proceedings of Her Majesty's brig "Express" towards the United States' steam-vessel "Prometheus" at Greytown.

I am, &c.
(Signed) W. A. B. HAMILTON.

Inclosure 1 in No. 95.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," at St. Thomas, December 19, 1851.

ON my arrival yesterday at St. Thomas I received the inclosed copy of a letter dated the 5th instant, addressed to Commodore McQuhae by Commander Fead, of the "Express," reporting his having, on the 21st ultimo, compelled the American steam-vessel "Prometheus" to remain at Greytown until her master had paid the usual port-dues. I am acquainted by Mr. Green, the Consul-General, who has come for his health to St. Thomas in the mail-packet, that two shots were fired towards the "Prometheus" by the "Express" to oblige her to re-anchor.

I am not in possession of the orders from Commodore McQuhae under which Commander Fead was acting, but as neither their Lordships' instructions of the 14th March last, relative to the defence of Greytown against foreign aggression, pending the negotiations then in progress, nor my general instructions to Commodore McQuhae, of which an extract of the part relative to the Mosquito shore is inclosed, sanction the employment of one of Her Majesty's ships in levying duties at the port; I shall send directions by the mail-packet to Chagres and Greytown, by which Mr. Green is about to return, to Commander Fead, of which

a copy accompanies this letter, to desist from compelling the payment of port-dues by the vessel he commands, until he receives further orders.

I request their Lordships' earliest directions on the subject.

I have, &c.

(Signed) G. F. SEYMOUR.

Inclosure 2 in No. 95.

Commander Fead to Commodore Mc Quhae.

Sir,

"Express," Greytown, Mosquito, December 8, 1851.

IN accordance with your orders, I have the honour to report to you, for the information of the Commander-in-chief, that, since my arrival here on the 10th of November up to the present date, this place has been in a perfect state of tranquillity, large numbers of persons passing through it to and from California, except on the 21st of November, when an interruption took place by the American steamer "Prometheus" refusing to acknowledge the Mosquito flag or any authority in this port, and objecting to pay the port-dues which all other vessels of the same nation have done; upon which Mr. James Green, Her Majesty's Consul-General, made application to me to detain her (a copy of his letter I beg to inclose), the force of this place having been defied and ejected from the "Prometheus," which I did, by weighing with the "Prometheus," and compelling her to anchor. Shortly after re-anchoring, I received a letter from the Captain of the Port, informing me that he had received all dues and charges from her, upon which I gave her permission to leave the port.

I further beg to inform you that part of my crew have been assisting in the equipment of a schooner of war for the Mosquito Government, which vessel was commissioned on the 6th instant; and, by the request of Mr. Green, the British Agent, I saluted the Mosquito flag on the occasion of the establishment of the first vessel of war, which was duly returned by His Mosquito Majesty's schooner "Jessie."

The Consul-General's health being much impaired by sickness, he proceeds to-day in the English packet to St. Thomas and back for change of air—a probable absence of three weeks; during which time he has requested me to take upon myself his duties, which I have accordingly done.

I have, &c.

(Signed) W. F. FEAD.

Inclosure 3 in No. 95.

Consul-General Green to Commander Fead.

Sir,

British Consulate, November 21, 1851.

IN consequence of the American steamer "Prometheus" refusing to comply with the port regulations, and refusing to acknowledge in any way the authority of the King of Mosquito over this port, in observance of such regulations and the means I have at my command being inadequate to compel, I am obliged to request the aid of the protecting Power, and call upon you to prevent the said vessel from leaving the harbour till such charges are paid.

I have, &c.

(Signed) JAMES GREEN.

Inclosure 4 in No. 95.

Extract from Instructions to Commodore Mc Quhae.

Bermuda, June 10, 1851.

YOU are to cause the ports and territory of the Mosquito Government to be frequently visited, and you will instruct the commanders of the vessels under your orders, employed on that service, to communicate with Her Majesty's

Consul-General and Agent, and to strictly govern their conduct with regard to any requisitions he may make for assistance, by the instructions with which the Commodore at Jamaica has been furnished, under the authority of Her Majesty's Government, especially those bearing date the 13th of March last; but they are not otherwise to interfere in the affairs of the Mosquito territory, nor to assume any control over its Government whatever. Ships ordered to Greytown are not to be directed to remain there, at any time, long enough to endanger the health of their crews, unless any unforeseen occurrence should render a longer stay absolutely necessary.

Inclosure 5 in No. 95.

Vice-Admiral Sir G. Seymour to Commander Fead.

Sir, "Cumberland," at St. Thomas, December 18, 1851.

ON my arrival this day at St. Thomas, I received the letter you addressed on the 8th instant to Commodore McQuhae, reporting the steps you had taken on the 21st of November to compel the American steam-vessel "Prometheus" to pay port-dues at Greytown, in consequence of a requisition to that effect which had been addressed to you by Mr. Green, Her Majesty's Consul-General in the Mosquito territory.

I have to desire that you will not, without further orders, again apply force to compel the levy of duties for the Mosquito Government, or for the port.

I have received no orders so to employ Her Majesty's vessels, and I do not find the Consul-General has been authorized to demand their assistance for that object. They have been stationed at Greytown in consequence of orders from the Lords Commissioners of the Admiralty, of the 14th of March last, to defend the town and inhabitants from aggressive attempts to deprive the Mosquito Government of possession, pending a settlement by negotiation of the question relative to its future position; and I consider that Her Majesty's ships of war are not warranted to enforce fiscal regulations without express orders.

On the arrival of another vessel of war at Greytown, you will return forthwith to Port Royal, Jamaica, for which I am about to sail.

I have also to add that it does not appear by your letter whether you gave notice of your intention to compel the "Prometheus" to anchor, before you resorted to force.

I am, &c.
(Signed) G. F. SEYMOUR.

No. 96.

Earl Granville to Mr. Abbott Laurence.

Foreign Office, January 10, 1852.

THE Undersigned, &c., has the honour acquaint Mr. Abbott Laurence, &c., that Her Majesty's Government have just received from the Vice-Admiral commanding Her Majesty's Naval Forces in the West Indies a report upon the subject of the "Prometheus," which is to the following effect:—That on arriving at St. Thomas', the Admiral received a despatch from the commander of Her Majesty's sloop "Express," stating that on the requisition of Mr. James Green, Her Majesty's Consul at Greytown, who is also principal officer of the Mosquito Government at that place, he had by force compelled the American steam-ship "Prometheus" to pay the port dues demanded of her by the authorities of Greytown.

To this despatch Vice-Admiral Sir George Seymour had immediately replied by saying that neither he, nor, to his knowledge, Her Majesty's Consul, had received any orders to allow Her Majesty's ships to be employed in such a service, or in enforcing the fiscal regulations of Mosquito; the sole object of the presence of British ships of war at Greytown being to defend the town and inhabitants from aggressive attempts to deprive the Mosquito Government of possession pending a settlement by negotiation of the question relative to its

future position. Sir George Seymour had further expressly forbidden "the commander of the "Express" from again employing force to compel the levy of duties for the Mosquito Government.

The Undersigned has now to state to Mr. Abbott Laurence, for the information of his Government, that Her Majesty's Government fully approve of the Vice-Admiral's conduct in this matter; and they entirely disavow the act of violence committed by the commander of the "Express," and also the requisition from Her Majesty's Consul under which the commander acted, so far as he acted by any authority derived from the British Crown.

Under these circumstances Her Majesty's Government have no hesitation in offering an ample apology for that which they consider to have been an infraction of Treaty engagements; and Her Majesty's Government do so without loss of time, and immediately upon the receipt of the official intelligence above alluded to, inasmuch as in their opinion it would be unworthy of the Government of a great nation to hesitate about making due reparation, when the acts of their subordinate authorities had been such as not to admit of justification. As Her Majesty's Government have full confidence that the Government of the United States is actuated by a similar feeling, they hope that this mutual confidence will induce each nation to refer at once to each other in all cases of such disputes; and until due time has elapsed for the necessary explanations to be received, to defer taking any steps which might lead to collisions, and thus much aggravate the original difficulty.

The Undersigned, &c.

(Signed)

GRANVILLE.

No. 97.

Mr. Addington to the Secretary to the Admiralty.

Sir,

Foreign Office, January 12, 1852.

I AM directed by Earl Granville to acknowledge the receipt of your letter of the 9th instant, forwarding a report from Vice-Admiral Sir George Seymour upon the subject of the proceedings of Her Majesty's sloop "Express" towards the United States' steam-ship "Prometheus," at Greytown; and I am to state to you, for the information of the Lords Commissioners of the Admiralty, that Her Majesty's Government fully approve of the conduct of Sir George Seymour upon the occasion, and entirely disavow the act of violence committed by the Commander of the "Express," acting under the orders of Her Majesty's Consul; and I am to request that you will move their Lordships to instruct Sir George Seymour to make a strict inquiry into the proceedings of Commander Fead, and to report officially thereupon.

The conduct of Mr. Consul Green in this matter has been disapproved by Her Majesty's Government.

I am, &c.

(Signed)

H. U. ADDINGTON.

No. 98.

Mr. Abbott Laurence to Earl Granville.—(Received January 14.)

Legation of the United States, January 13, 1852.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States, has the honour to acknowledge the receipt of the note which Earl Granville, Her Majesty's Principal Secretary of State for Foreign Affairs, addressed him on the 10th of January, on the subject of the course of the Commander of the British sloop "Express" towards the "Prometheus."

The Undersigned is gratified at the promptness with which Her Majesty's Government has disavowed this act, after receiving a report of the transaction from the Admiral commanding on the station; and he doubts not that the apology offered for it will be received by the Government of the United States in the same spirit which has dictated it on the part of Her Majesty's Government.

The Undersigned hopes that the questions under negotiation, alluded to in Lord Granville's note, out of which this difficulty grew, may be speedily settled, and that hereafter there may be no cause of misunderstanding between the Government of the United States and Her Majesty's Government, either in Central America or any other part of the world.

The Undersigned, &c.

(Signed)

ABBOTT LAURENCE.

No. 99.

Earl Granville to Consul-General Green.

Sir,

Foreign Office, January 13, 1852.

HER Majesty's Government lately received from the United States' Envoy at this Court a remonstrance on the part of his Government against an act of violence stated to have been committed by the commander of Her Majesty's sloop "Express," against the American steam-ship "Prometheus," in the port of Greytown; and Her Majesty's Government have learnt with much regret, by a report just received from Vice-Admiral Sir George Seymour, that this act of violence was not only actually committed most unjustifiably by Commander Fead, but that he had acted under a requisition addressed to him by you.

I have now to acquaint you that Her Majesty's Government highly disapprove of your conduct in this matter. Her Majesty's ships are not stationed at Greytown to enforce fiscal regulations, or to demand the payment from foreign vessels of port-dues levied on behalf of the Mosquito Government, but merely to defend the town and inhabitants against any aggressive attempts to deprive the Mosquito Government of possession, pending a settlement by negotiation of the question relative to its future position.

Such proceedings on your part are highly injurious to the interests of Her Majesty's Government, who are thereby liable to be unnecessarily involved in embarrassing questions with the Governments of other nations; and I have peremptorily to enjoin you to be more circumspect in future and to impress upon you the necessity of abstaining from measures which your instructions do not warrant you in adopting, and which moreover, in the instance in question, are contrary to the letter and spirit of Treaty engagements.

I am, &c.

(Signed)

GRANVILLE.

No. 100.

The Secretary to the Admiralty to Mr. Addington.—(Received January 15.)

Sir,

Admiralty, January 14, 1852.

I HAVE received and laid before my Lords Commissioners of the Admiralty your letter of the 12th instant, conveying the expression of the approval of Her Majesty's Government of the conduct of Vice-Admiral Sir George Seymour, in regard to the proceedings of Her Majesty's sloop "Express" towards the United States' steam-vessel "Prometheus," at Greytown, and requesting that a strict inquiry may be made into the conduct of Commander Fead of the "Express" upon that occasion.

My Lords desire me to state, for the information of Earl Granville, that your letter of the 1st instant, inclosing the representation of the American Minister, has already been forwarded to Sir George Seymour for Commander Fead's explanation, and their Lordships have now directed the Vice-Admiral to make any further inquiry which he may think necessary.

I am, &c.

(Signed)

W. A. B. HAMILTON.

Mr. Crampton to Viscount Palmerston.—(Received January 14, 1852.)

(Extract.)

Washington, December 29, 1851.

A REPRESENTATION has been made to me by Mr. Joseph L. White, on the part of the American Atlantic and Pacific Ship-Canal Company, soliciting the good offices of Her Majesty's Legation with the authorities of Greytown in regard to the enforcement of port dues, and in regard to some regulations recently adopted by them, which the Company consider to be prejudicial to their interests, and calculated seriously to interfere with the enterprise in which they are engaged. That of which they chiefly complain, is the order to navigate the river by a particular channel, which they state to be tantamount to an order not to navigate the river at all; there not being in that channel a sufficient depth of water for their vessels.

With this request I have thought it right, under all the circumstances of the case, to comply.

The Company dispatched, in the first instance, to Washington a person in their confidence, with a verbal message to myself, requesting that I would make an unofficial representation of their complaint to the authorities at Greytown. To this I declined to accede, but I stated that if the Company were now to make through their properly authorised agent, to Her Majesty's Legation, a representation with regard to any measures of which they thought they had reason to complain, or which were likely to lead to misunderstandings between themselves and the authorities at Greytown, I would willingly, but of course without pretending to prejudge the merits of their case upon their own statement of it, write to Her Majesty's Vice-Consul in Mosquito, suggesting to him the expediency of procuring an amicable settlement of the points at issue; or at all events of suspending measures of coercion in regard to them, until such time as the opinion of Her Majesty's Government should be known.

Mr. White accordingly called upon me, and the letter of which I have the honour to inclose a copy, and which contains copies of the regulations complained of, was the result of our conversation.

As the ground which he has now taken does not seem to me to be inconsistent with the just pretensions of Her Majesty's Government, or with the real position of the question, I have addressed to Her Majesty's Vice-Consul at Greytown the letter, a copy of which I have the honour to inclose herewith.

It would no doubt be difficult to say which party is to blame in these misunderstandings between the Canal Company and the authorities at Greytown. A spirit of encroachment may have been manifested by the Company; it is alleged, on the other hand, that certain American citizens who form part of the City Council of Greytown, and who are supposed to be hostile to Messrs. White and Vanderbilt's enterprise for a transit route, and who, perhaps, favour some other similar speculation, have procured the adoption of measures prejudicial to the interests of the Company. But, however this may be, it appeared to me that under present circumstances these misunderstandings are liable to give rise to questions of a very serious nature between Her Majesty's Government and the Government of the United States; and even to risk of a collision between the naval forces of the two countries in that quarter.

It is therefore that I have thought it right to omit no step in my power which may contribute to keep things quiet at Greytown at the present time; the more so, that the news which has lately been received here from Nicaragua, seems to hold out some prospect of the establishment of a state of things which may render it possible to resume before long the negotiations which were suspended in July last, for the arrangement of the affairs of Mosquito and the neighbouring Republics upon a satisfactory basis.

To the importance of that object, Mr. Webster has assured me, in a late conversation, the United States' Government is fully alive. And he expressed himself as anxious to resume the negotiation with Her Majesty's Legation, whenever circumstances may render it possible.

Inclosure 1 in No. 101.

Mr. White to Mr. Crampton.

Sir,

Washington, December 24, 1851.

HEREWITH I inclose to you copies of letters signed by Mr. James Green and Mr. W. P. Fead, Commander, Royal Navy, and Acting Chairman of the City Council : also copies of resolutions or orders passed by a body which styles itself the City Council of Greytown.

It is hoped by the Company which I represent that your knowledge of the wishes and intentions of your Government towards them may induce you to write to the authorities of San Juan del Norte, or Greytown, urging upon them the necessity, or at least the propriety, of suspending the enforcement of their recent orders or resolutions, especially as all questions relating to the boundaries of Mosquito and the adjacent Republics of Central America are now occupying the attention of the Governments of the United States and Her Britannic Majesty.

Very respectfully yours, &c.

(Signed) J. L. WHITE,

Counsel to the Ship-Canal Company.

Inclosure 2 in No. 101.

The Chairman of the City Council of Greytown to Mr. Geddes, Agent of the American Atlantic and Pacific Ship-Canal Company.

Sir,

Greytown, Mosquito, November 22, 1851.

BY order of the City Council, you are hereby notified that the City Council will require of you, and the Company's boats, captains, and crews, full and particular obedience to the following orders :

1st. All the river steamers to take their departure up the River San Juan by the old passage, viz., by and past the house of — [name illegible] upon the island opposite the city.

2nd. That the river steamers will not be allowed to go alongside or to receive from any steam-ship, or other vessel in the port of Greytown, any passengers or cargo.

3rd. Before departure from the port of Greytown, all river steamers to deliver to the captain of the boat a full and correct list of passengers and crews, and also a full manifest of cargo, and not to depart without the permission of the captain of the boat.

4th. That no river steamer will be allowed to proceed up said river until the above orders have been complied with.

5th. That all river steamers returning from said river shall land their passengers and cargo upon the beach in front of the city of Greytown, the captain of the steamer first reporting his arrival to the Port-Captain.

I have, &c.

(Signed) JAMES GREEN,

Chairman of the City Council.

Inclosure 3 in No. 101.

Mr. Fitzpatrick to the Secretary to the American Atlantic and Pacific Ship-Canal Company.

Sir,

Greytown, December 6, 1851.

I AM instructed by Her Britannic Majesty's Agent, on the part of the Mosquito Government, to notify to you the intention of the Government to immediately set apart a portion of the opposite portion of the harbour for quarantine purposes. That this arrangement necessarily requires the Government to withdraw the permission given to the Canal Company to occupy a piece

of land upon the opposite side of the harbour until required by the Government; and I am instructed to give you notice that on the 1st of January, 1852, the land in question will be required for the purposes of the Mosquito Government.

I am, &c.
(Signed) DAVID FITZPATRICK,
Secretary.

Inclosure 4 in No. 101.

Commander Fead to Captain Baldwin.

*City Council Board, Greytown, Mosquito,
December 8, 1851.*

Sir,

YOUR letter of the 6th instant has been duly placed before the City Council, and I herewith beg to furnish you with their decision on it.

The reply of the City Council to your first proposition of not being asked for your port charges on your last visit to this port, and therefore not liable, is that it was not necessary you should be asked for the money, it being your duty to have called at the Port-Captain's Office and paid the dues, as it is the duty of all merchant captains, which is clearly pointed out in the Navigation Law of every nation, that they are to make themselves acquainted with the laws of the port they enter; and consequently your objection is perfectly invalid.

The City Council, in reply to your other proposition, do not consider that you are placed in any inferior position to any other merchant steamers, as all other steamers which arrive at this port, American or English, pay port charges.

The English mail steamers always pay full pilotage, viz., 25 dollars each time; the American steamers of Mr. Vanderbilt pay simply 23 dollars 50 cents—1 dollar 50 cents less than the English mail steamers; therefore the City Council do not consider that you are entitled to more privilege than you at present enjoy, and they are not disposed to grant you any other.

The City Council, in contrasting your position with the Royal West Indian mail steamers, have to point out to you that that Company, before their steamers navigated this harbour, entered into an agreement with this Government, under which agreement they now stand, and have done so for several years; and in quoting other ports they are also exempt from dues.

The City Council beg further to point out that the Royal West Indian mail steamers bring a regular sealed mail without any postage on those letters, and in charge of a naval officer, and that they start regularly to their time, carrying a mail with them, which is not the case with your vessel.

The City Council cannot alter the port regulations in favour of one company without in justice doing so to all merchant-vessels, whether steamers or sailing-vessels, which may enter this port, and that such alteration is quite impossible and entirely out of the question.

I have, &c.
(Signed) W. P. FEAD,
Commander Royal Navy, Acting Chairman to the City Council.

Inclosure 5 in No. 101.

Mr. Crampton to Consul-General Green.

(Extract.)

Washington, December 24, 1851.

A REPRESENTATION has been made to this Legation by the North American Atlantic and Pacific Ship-Canal Company with regard to the levying of port dues, and with regard to certain other regulations applicable to their vessels, adopted by the City Council of Greytown, and communicated to the Company in letters on the part of the Council, dated November 22nd, December 6th, and December 8th, respectively.

The enforcement of these regulations would, the Company state, be

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extremely detrimental to their interests, and seriously interfere with the execution of the enterprise in which they are engaged; they have accordingly requested the good offices of Her Majesty's Legation with the authorities at Greytown to procure such an arrangement of these matters as may remove all cause of complaint or the possibility of any future misunderstanding between those authorities and the agents of the Company.

The question which has arisen between the authorities of Greytown and the Company with regard to the enforcement of the payment of port dues in the case of the "Prometheus," has, as you are probably aware, been made the subject of a representation to Her Majesty's Government by the Government of the United States, through their Minister in London, the result of which will no doubt be communicated to you by Viscount Palmerston; and with regard to the necessity or expediency of the other regulations of which the Company complain, it would of course be impossible for me to form any other opinion than that you feel yourself authorised by your instructions to sanction their enactment. I would nevertheless take the liberty of suggesting to you that there are circumstances peculiar to the present political condition of Greytown, which call for great circumspection on the part of the authorities of that place, and of Her Majesty's agents and officers there, in the exercise of their functions.

Misunderstandings arising between them and citizens of the United States are, under present circumstances, for obvious reasons, likely to cause excitement in this country, and to give rise to questions between Her Majesty's Government and the Government of the United States of a gravity altogether disproportioned to the importance of the matters out of which those misunderstandings may have arisen.

It is therefore of great moment that these should be avoided; and this is more peculiarly desirable at a time when a negotiation is pending under the mediation of Her Majesty's Government and that of the United States for the settlement of the boundaries of Mosquito, and of the neighbouring Republics of Costa Rica and Nicaragua, with a sincere desire on the part of both nations to effect such an arrangement as shall be satisfactory to all parties, and secure every facility to the execution of the important enterprise of an Interoceanic Canal.

It is from such considerations that I venture to throw out these observations, and to express a hope that means may be found to come to an amicable arrangement with the Company with regard to the points complained of by them; or that in cases where a difference of opinion should exist, measures of coercion may be suspended until such time as the opinion of Her Majesty's Government in regard to the matter at issue be known.

This can, of course, be done under a reserve of all the just rights of the Mosquito Government.

No. 102.

Earl Granville to Mr. Crampton.

Sir,

Foreign Office, January 16, 1852.

WITH reference to my despatch of the 2nd instant, respecting the proceedings of the Commander of Her Majesty's sloop "Express," towards the American steam-ship "Prometheus," in the port of Greytown, I transmit to you herewith, for your information, a copy of a note * which I have addressed upon this subject to Mr. Abbott Laurence, the United States' Minister at this Court, by which you will perceive that Her Majesty's Government entirely disavow the proceedings of Commander Fead and of Mr. Consul Green.

I also transmit to you copies of despatches † which I have addressed to Mr. Consul Green, and to the Admiralty, with reference to this matter.

I am, &c.

(Signed) GRANVILLE.

* No. 96.

† Nos. 97 and 99.

No. 103.

Mr. Crampton to Viscount Palmerston.—(Received January 21.)

(Extract.)

Washington, January 4, 1852.

I HAVE the honour to inclose herewith the copy of a letter which I yesterday received from Vice-Admiral Sir George Seymour, in reference to the detention of the American steamer "Prometheus" at Greytown by the Commander of Her Majesty's ship "Express."

The view taken of this occurrence by Sir George Seymour, and the orders which he has issued in consequence to the officer under his command, appearing to me to be such as would be considered by the United States' Government as offering a satisfactory explanation of the proceedings at Greytown, which formed the subject of the representation to Her Majesty's Government made by the American Minister in London, and calculated to allay the anxiety which Mr. Webster expressed to me in regard to the danger of a collision between the naval forces of the two countries in that quarter, I thought it right to communicate to him the substance of Sir George Seymour's letter.

Mr. Webster said that he felt much gratified by the intelligence, and begged of me to state to Sir George Seymour the sense entertained by the American Government of the friendly and considerate spirit by which the measures he has taken have been dictated.

I have the honour to inclose a copy of my reply to Sir George Seymours letter.

Inclosure 1 in No. 103.

Vice-Admiral Sir G. Seymour to Mr. Crampton.

Sir,

"Cumberland," St. Thomas's, December 21, 1851.

I ARRIVED here on the 18th instant from Martinique and Antigua, and on communicating with the packets, received a letter from the Commander of the "Express" (Fead), of the 8th December, relating that he had on November 21st compelled the American steam-ship "Prometheus" to resume the anchorage at Greytown until her master had paid the port-dues.

I have not any copies of the orders under which he was immediately acting; but as mine to Commodore McQuhae, who commands the Jamaica division, do not sanction that description of interference in the affairs of the Mosquito territory, and the principal object of keeping a vessel of war at Greytown is to protect it against aggressions apprehended from the Nicaraguans and natives of the United States passing the Isthmus (under orders suggested by Lord Palmerston, dated the 13th March last), I have sent directions to Captain Fead, by the packet about to sail for Chagres and Greytown, to desist from enforcing the payment of such dues to the Mosquito Government or that of Greytown until further orders.

I have written by the packet which sailed yesterday for England to acquaint the Admiralty that I have so done, and requested the earliest instructions on the point; and as I find that Mr. Bunch, the Vice-Consul at New York, reported the circumstances on the arrival of the "Prometheus," to Lord Palmerston, it is probable that before the arrival of my letter, directions founded on that information may be sent by the Jamaica packet, which will be due at that island on January 23rd.

Mr. Green, Her Majesty's Consul at Greytown, came up here for the benefit of his health, which seems much shattered by the climate, and has acquainted me with the state of things in that quarter, which seems to render an early arrangement most desirable. He does not appear to have any instructions which authorized him to demand the assistance of Her Majesty's ships in compelling foreign vessels to comply with the port regulations, and has evidently been guided more by regard to his immediate charge than by any general considerations of the effect of a compliance with his requisitions. I apprehend that the expectation that the affair was to be settled at Washington has deprived him of the instructions necessary to guide him in a difficult position.

I have authorized Captain Fead, in case of the arrival of any United States' vessels of war at Greytown (if circumstances render it advisable), to communicate to the captain the directions I have sent him to desist from levying the port dues by compulsory means, but to convey to that officer that it is very desirable that port regulations should be complied with until a definite settlement about Greytown has taken place through the negotiations pending between Great Britain and the United States.

I have also directed him, if any demand is made upon him in reference to the late transaction with the "Prometheus," to reply, that the subject having been brought by the Government of the United States before that of Great Britain, he can take no step without the authority of the officer under whom he is placed.

I regret much this untoward and (in my opinion) unnecessary collision; but, under the circumstances, think the directions I have given will prevent any additional difficulties till the reply of both Governments shall arrive.

I avail myself of the departure this morning of the "Merlin" for New York, to communicate the view I have taken on the subject; and it is probable that by the time this reaches you, the directions Her Majesty's Government may send out for your guidance respecting this transaction may be soon expected, when the knowledge of the orders I have already given may be useful.

I sail to-day for Port Royal, Jamaica, from where I intend to send any vessel I find ready to relieve the "Express."

I shall probably remain at that island during the great part of January; and the greater part of my squadron will be there early in the month.

I have, &c.
(Signed) G. F. SEYMOUR.

P.S.—Mr. Green returns by the same packet which brought him from Greytown to this port.

Inclosure 2 in No. 103.

Mr. Crampton to Vice-Admiral Sir G. Seymour.

(Extract.)

Washington, January 3, 1852.

I HAVE just received your letter, dated St. Thomas, December 21, on the subject of the detention of the "Prometheus." I feel extremely obliged by the communication, than which nothing could have been better timed or more useful. We have not had time to hear anything on the subject from Europe; and it has been the cause of a good deal of anxiety to the Government here, who are, I believe, sincerely desirous of avoiding any misunderstanding with us on the subject, which has been taken up in an angry manner by those opposed to the Administration, and by the press. I was in the meantime totally unable to say anything upon the matter, having received no report of the occurrence from any official authority. Your letter has enabled me to make to the United States' Government such explanations as have proved entirely satisfactory to them, both with regard to the transaction itself, and with regard to the danger of collision, arising out of any future occurrences of a like nature.

I read some passages of your letter to Mr. Webster, who begged me to say, on the part of the American Government, that they highly appreciate the friendly and considerate spirit in which you have acted on this occasion, and feel confident that the measures you contemplate will prevent the possibility of every future misunderstanding, or the possibility of any disagreeable occurrence between the naval forces of the two countries in regard to this matter.

I inclose you a copy of the letter* which I wrote to Mr. Green, recommending a suspension of measures of coercion, which I am happy to find is entirely in accordance with the instructions you have given to the naval officer under your command.

* See Inclosure 5 in No. 101.

No. 104.

Earl Granville to Mr. Crampton.

Sir,

Foreign Office, January 23, 1852.

MANY circumstances concur to induce Her Majesty's Government to wish that the question of the final position which Greytown and the Mosquito territory are to assume in relation to the contiguous States of Central America and to the United States should be brought as speedily as possible to a permanent settlement, and that, in this manner, the embarrassments which might arise from the undefined position of all parties concerned may be prevented.

It is the earnest wish of Her Majesty's Government to remove every cause of possible misunderstanding between the Governments of Great Britain and the United States.

Her Majesty's Government doubt not that the Government of the United States are animated with the same good spirit as themselves with regard to the settlement of this question.

I gather from your despatch of December 29, that the affairs of Nicaragua appeared at that time to wear a more promising aspect than they have done of late; and you also state, in the same despatch, that Mr. Webster had expressed a desire to renew the negotiations which were interrupted last year, as soon as the restoration of order and a more settled state of Government in the State of Nicaragua should permit such renewal.

I have accordingly to desire that you will seek an early interview with the United States' Secretary of State, and that you will express to him the earnest wish of Her Majesty's Government to resume the suspended conferences on the points at issue, with a view of making every effort, with the assistance and cooperation of the United States, to bring the whole question to an early and mutually satisfactory conclusion.

A brief retrospect of what has already been done in this matter will be of use in making clear the present views of Her Majesty's Government with reference to it.

You are aware that, within the last two years, Her Majesty's Minister at Washington made to the United States' Government several communications on the question at issue, in which communications he explained to the American Secretary of State that, in adopting any new settlement with respect to Greytown, it appeared to Her Majesty's Government desirable to make, if possible, such settlement conducive to the establishment of amicable relations between Nicaragua and Costa Rica, those Republics being at variance with regard to their respective territory and rights.

It appeared also to Her Majesty's Government preferable that the two ports at the several extremes of the projected Canal should be placed in the hands of two separate Central American States, rather than that those ports should remain in the hands of one and the same State.

Consequently, the first proposition or suggestion put forward by Sir Henry Bulwer was, that the Mosquito Government should be induced, for some consideration, to render to Costa Rica the port of Greytown and a district adjoining thereto; and that if Nicaragua assented to this arrangement, this State should be compensated by receiving an adequate portion of the country claimed by her, but now held by Costa Rica.

Some delay in dealing with this question was unavoidably caused by there being no Minister from Nicaragua at Washington until the spring of last year; and when a Minister at length arrived, Her Majesty's Minister found it impossible to induce that person to conclude any friendly arrangement on the basis above-described. Sir Henry Bulwer therefore suggested that, instead of Costa Rica being put in possession of Greytown, that port and district should be made over to Nicaragua in the same manner in which he had first proposed that it should be ceded to Costa Rica; and, further, that Costa Rica should cede to Nicaragua the share which she claims in the sovereignty over the River San Juan, on condition that she should still retain the right of free navigation over the said river for all vessels except steam-vessels.

In return for this concession, it was proposed that Nicaragua should, on her side, abandon her pretensions to those portions of territory now possessed

by Costa Rica, but claimed by Nicaragua, it being always understood that Nicaragua and Costa Rica should both agree to respect the remaining territory of Mosquito.

This proposal was made to the Ministers of Nicaragua and Costa Rica by Sir Henry Bulwer in the presence of Mr. Webster, who appeared at that time to consider that it offered, upon the whole, a fair basis for mutual agreement. But the Minister of Nicaragua declared that he had no sufficient authority to treat thereupon, and that he was therefore obliged to refer to his Government for further powers,

In the meantime those changes and convulsions which unfortunately took place at that period in the State of Nicaragua interposed obstacles in the way of pursuing the negotiation.

Her Majesty's Government, however, are, as I have above stated, very anxious that the negotiation should be recommenced at an early moment, and brought to a close on terms convenient and honourable to the several parties interested. Therefore, if any other terms should appear to Mr. Webster to offer greater advantages than those adverted to, Her Majesty's Government will be happy to be made acquainted with his views, and will receive and consider them with the regard due to the Minister of a Government with which Her Majesty's Government are anxious to be on the most friendly footing.

In saying this, Her Majesty's Government are fully assured that language so amicable and loyal will be met by the United States' Government in a corresponding spirit, and that the history and circumstances of the case to which I have referred, and the position in which Her Majesty's Government stands with respect to it, will be duly weighed and appreciated by the Government of the United States.

Her Majesty's Government cannot act with regard to the Mosquito question in any manner derogatory to its character, or in abandonment of the principles which it has hitherto maintained; but it seeks for the satisfaction of no selfish interest whatsoever in the solution of that question.

The Government of Washington stands unpledged as to this matter; its position therefore is more free than that of Her Majesty's Government. But there is no reason why the two Governments, setting entirely aside all selfish objects, and being animated with the sole desire of terminating a somewhat difficult affair in the best and most disinterested mode that offers, should not, by their good understanding and cordial cooperation, bring it to a prompt and satisfactory conclusion.

You will read this despatch to Mr. Webster, and thus open the way to any negotiation or explanations into which he may be disposed to enter with you.

I am, &c.
(Signed) GRANVILLE.

No. 105.

Earl Granville to Mr. Crampton.

(Extract.)

Foreign Office, January 23, 1852.

I HAVE alluded, in my preceding despatch, to the two plans for settling the Mosquito question which have already been mentioned to Mr. Webster; but there are two others which deserve attention, and on which it would be desirable to ascertain the views of Mr. Webster.

The first is that of consigning Greytown to the joint sovereignty of the five Central American States, these establishing a sort of Federal Government at Greytown, engaging to respect the remaining portion of the Mosquito territory, and to establish a Court of Arbitration for matters of dispute between the several States, in which, of course, would be included the disputes between Nicaragua and Costa Rica.

There are some plausible grounds for this plan, and amongst others, the fact that when the Port of San Juan was first established by a decree of the old Spanish monarchy, it was established as a port, not only for the province of Nicaragua, but for the circumjacent provinces.

It is, moreover, possible that if the possession of Greytown was secured to

all the five States in common, they would all agree to respect or protect the remaining portion of the Mosquito territory; and the protectorate of Great Britain over the same would thus, in due time, become unnecessary, and might honourably cease.

But, whilst these advantages may be adduced in favour of the project above alluded to, there are many obvious disadvantages, more especially affecting its practical execution, on which, however, it is not necessary now to dilate, which prevent my suggesting it to Mr. Webster; although, if he were inclined to favour such a scheme, Her Majesty's Government would not be inclined to reject it.

The second plan, and that which Her Majesty's Government would greatly prefer, as more simple, more practical, and much easier of execution, is to make Greytown a free port, either under the protection of Great Britain and the United States, or under a mutual guarantee of its neutrality.

In this case, Greytown would certainly be likely to become rather American than English in its tendencies, inasmuch as the preponderating element of its population would, unquestionably, be American; but this could scarcely fail, in the peculiar position of Greytown, to be the case under any arrangement that might be concluded.

Her Majesty's Government would, therefore, not be averse to such a scheme of arrangement, if the United States' Government were more favourably disposed towards it than towards any other. It must always, however, be understood that whoever becomes possessed of Greytown must pay a sufficient indemnity to the Mosquito Government, and agree, as I have already said, to protect, or at least respect, the remaining portion of the Mosquito territory.

There will be no necessity for you to suggest either of these plans, if Mr. Webster should enter into the project of making over Greytown conditionally to Nicaragua, already proposed by Sir Henry Bulwer, as stated in my preceding despatch, and should agree to support and endeavour to carry out the same; but if he should seem undecided as to this point, and evince a disposition rather to discuss the various modes of arrangement that may be adopted, you may then endeavour to obtain his opinions, both as to the proposition of ceding Greytown to the five States jointly, and also to that of converting it into a free town, either under British and American protection, or under a mutual guarantee of its neutrality.

The difficulties which are principally to be apprehended in the way of a settlement, are:

1. The little hope that exists of inducing Nicaragua and Costa Rica to agree to any mutual arrangement at all; and especially of inducing Nicaragua to cede the territory for which she is disputing with Costa Rica, even if she were to obtain Greytown as a condition of that cession.

2. The reluctance which Nicaragua would probably entertain to pay indemnity to the Mosquito Government for the cession of Greytown, on the ground that by so doing she would appear to recognize the original right of Mosquito.

3. The dislike on the part of Nicaragua to leave any territory at all to the Mosquitos, particularly if that country remained under British protection.

It is difficult to suggest, in advance, all the modes of surmounting such difficulties; but some may be pointed out:

Supposing Nicaragua agreed to surrender a part, if not all, of the disputed territory, the question as to the rest might be decided by arbitration.

The indemnity to Mosquito might be accorded as a matter of accommodation and compromise, without any acknowledgment on the part of Nicaragua of the justice of the Mosquito claim.

The United States' Government recognizes within its own territory no right of sovereignty in the Indians inhabiting that territory; yet it recognises their right of occupancy, and pays them for the occasional cession of that right.

Such are some of the arguments by which the difficulties which will probably be urged on the part of Nicaragua might be met.

In regard to the remaining territory of the Mosquitos, the United States' Government must see that, considering the ancient ties which bind Mosquito to Great Britain, it is impossible for Great Britain to abandon these people; but if the United States would be willing to join Great Britain in the future protection of them, such an arrangement would do away with all difficulty on that score.

Furthermore, if, either from the present state of Nicaragua or from its general unreasonableness, it should appear impracticable to arrive at any settlement with her, Great Britain and the United States, might, between themselves, and without reference to Nicaragua, come to such amicable and final arrangement as suited them, as to the present condition of Greytown and the terms on which a future settlement of the whole question at issue might be made.

Your object will be to ascertain, and inform Her Majesty's Government, which of the various plans thus sketched out would be likely to obtain the consent of the American Government, or what other plan they would wish to substitute for them.

Should Mr. Webster be willing to enter with you into any settlement of the affair upon the basis already proposed to M. Marcoleta by Sir Henry Bulwer, as stated in my preceding despatch, you may refer to Her Majesty's Government the draft of any such arrangement, and assure the United States' Secretary of State that you feel secure of the general assent of Her Majesty's Government to it.

Should any other mode of settlement be proposed to you, you will equally refer it, if fit for acceptance, to Her Majesty's Government. You will, however, be pretty well able to judge from the tone and nature of such proposal, whether it is likely to be acceptable or not.

The desire of Her Majesty's Government is, as I have already said, that the whole Mosquito question should be settled; and more especially that it should be settled in such a manner as to secure the cordial assent and goodwill of the United States. And we should not be disposed to make difficulties about any scheme of settlement which should be compatible with the honour and character of this country. But this latter condition must be regarded as a *sine quâ non*.

No. 106.

Earl Granville to Mr. Crampton.

Sir,

Foreign Office, January 23, 1852.

I HAVE received your despatch of the 4th instant, stating that you had communicated confidentially to Mr. Webster the substance of Admiral Sir George Seymour's reports to you on the subject of the "Prometheus," and I have to acquaint you that I entirely approve of your proceedings in this matter.

You will have seen by my despatch of the 16th instant, that Her Majesty's Government have fully approved of the judicious conduct of Sir George Seymour in reference to the "Prometheus," and they doubt not that the course which he followed has contributed much to bring this unfortunate event to a termination which will probably strengthen the friendly feelings which exist between the two countries.

You will express to Mr. Webster the satisfaction of Her Majesty's Government at learning from you, that he had expressed himself in so friendly a manner upon this subject.

I am, &c.
(Signed) GRANVILLE.

No. 107.

Earl Granville to Mr. Crampton.

(Extract.)

Foreign Office, February 20, 1852.

I INCLOSE a copy of a letter* which has been lately received at this office from the Admiralty, covering a communication from Rear-Admiral Sir George Seymour relative to the present state of affairs at Greytown.

These papers show that those affairs are in a critical position, and point out the expediency of losing no time in placing them upon a safer footing.

You will already have learned, from preceding communications from this

* No. 108.

Office, that Her Majesty's Government were no sooner made officially acquainted with the particulars of the untoward affair of the "Express" and the "Prometheus" than they hastened to make ample reparation to the United States' Government for the wrong which had been done to United States' citizens by this act of British officers at Greytown.

In the meantime, however, the United States' Government, on receiving information of the affair in question, had dispatched the "Saranac" steam-frigate, commanded by Commodore Parker, to Greytown; and it appears that, on his arrival at Greytown, that officer, in pursuance of his instructions, addressed a communication to Captain Fead, of Her Majesty's ship "Express," which was still at that port, in which Commodore Parker states that the United States' Government acknowledges no right in the Government or vessels of Great Britain to exercise any police or supervision over American vessels in Nicaragua or elsewhere out of the British dominions; that, on the contrary, the first Article of the Convention of the 19th of April, 1850, between the United States and Great Britain, expressly excluded each of the Contracting Parties from assuming or exercising any dominion over Nicaragua, Costa Rica, and the Mosquito Coast, or any part of Central America. And Commodore Parker went on to say, that he was directed to inform Captain Fead that no such interference with American commercial interests on that coast could be permitted by the Government of the United States.

Without dwelling on the tone of this communication, I have to observe that, from its terms, it would appear as if the United States' Government considered that, from the moment of the conclusion of the Convention of the 19th of April, 1850, Great Britain had renounced all title to interfere in the affairs of Greytown and the Mosquito country, and engaged to relinquish that place and country to the State of Nicaragua.

Her Majesty's Government cannot admit such an interpretation of the Convention of the 19th of April, by which, as understood by Her Majesty's Government, Great Britain is not precluded from protecting the Mosquitos, but is only restricted from occupying, fortifying, or colonising, or of assuming or exercising any dominion over the Mosquito Coast or any part of Central America; and Her Majesty's Government will therefore resist any attempt on the part of Nicaragua, or any other Power, to take possession of Greytown, or of any portion of the Mosquito territory, until some arrangement is concluded between Great Britain and the United States, by the negotiations which you are now conducting with Mr. Webster on this question.

The actual position of affairs at Greytown shows, however, the imperative necessity of our coming as quickly as possible to a thorough and amicable understanding with the United States as to the best mode of effecting this settlement.

You will already have received my instructions on that point, and therefore until I shall have received your reply, and shall have thereby been enabled to judge how our suggestions may have been received by the United States' Government, it is unnecessary for me to dwell further on that matter; but Her Majesty's Government deem it highly desirable, for the sake of that good understanding which it is so important for both parties to maintain, that until the terms of a definite arrangement with respect to the general Central American question pending between them shall have been determined, a provisional agreement should be come to, in which, without entering into any question of right of possession, both parties should recognise the Government of Greytown as a merely *de facto* body, existing there for the benefit of commerce and the maintenance of order; that both parties should enjoin their respective subjects and citizens trading to or established at that place, to respect the local laws and to pay the local port-dues; and that both parties should further instruct the commanders of their respective vessels of war either stationed or arriving at the port of Greytown, to assist the Local Government in such manner and to such extent as may be mutually agreed upon in enforcing respect to the laws and payment of port-dues.

As the Government of Greytown would continue to be a mixed Government, composed mainly and indiscriminately of English and Americans, it appears to Her Majesty's Government that a temporary arrangement of the above nature ought to meet with no difficulty. I have accordingly to desire that you will communicate the substance of this despatch to the United States' Secretary of

State, and that you will urge him to take into favourable consideration the suggestions contained in it, and to press them upon the approval of the President.

No. 108.

The Secretary to the Admiralty to Mr. Addington.

Sir,

Admiralty, February 9, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Earl Granville, copies of a letter from Vice-Admiral Sir George Seymour, dated the 13th January, and of its inclosures, relative to the state of affairs at Greytown.

I am, &c.
(Signed) W. A. B. HAMILTON.

Inclosure 1 in No. 108.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," at Jamaica, January 13, 1852.

THE "Alban" having proceeded in advance of the "Calypso," which sailed from Port Royal for Greytown on the 4th instant, returned here on the 10th, Commander Fead having deemed the continued presence of the "Express" necessary until an accession of force arrived, to prevent an attempt being made to dispossess the Mosquito Government of Greytown.

Commodore Parker, commanding the United States' home squadron, had arrived in the steam-frigate "Saranac" at Greytown, and the "Albany," of eighteen guns, at Chagres; and communications passed between the Commodore and Commander Fead, of which I inclose copies.

The latter acquaints me, that although the Commodore is unlikely to further any outbreak, yet the language of some of his officers has that tendency, and as the Consul has also stated his apprehension on the same subject, and that the Nicaraguans threaten an attack, I have judged it necessary to send a force to Greytown, which will mark the determination of Her Majesty's Government to protect the place, until its future position shall be established by the negotiations referred to in my instructions of the 14th March, 1851.

The "Arrogant" was, on the day I received this information, ready to sail for Lisbon with supernumeraries for Europe embarked; but as I deem that her force, and Captain Robinson's judgment, may be equally useful in effecting the above purpose, and coming to an understanding with the United States' Commodore, I have thought it for the benefit of Her Majesty's service to send the "Arrogant" to Greytown, for which she sailed shortly after the arrival of the "Alban," with orders to return to Port Royal, leaving the "Calypso" on the Mosquito Coast, as soon as Captain Robinson has ascertained or secured the safety of the place.

I hope to dispatch the "Arrogant" to Lisbon immediately on her return, and that their Lordships will, under the particular circumstances, approve of her detention. She was on a cruize when the order I sent in November for her to proceed to Lisbon arrived at Jamaica.

It is my intention to remain at Port Royal until I receive Captain Robinson's reports.

I have, &c.
(Signed) G. F. SEYMOUR.

P.S. *January 15, 1851.*—Referring to the second paragraph of my letter of the 19th ultimo, I now inclose a copy of the instructions under which Commander Fead was actually employed at Greytown.

G. F. S.

Inclosure 2 in No. 108.

Commodore Parker to Commander Fead.

United States' steam-frigate "Saranac,"

San Juan de Nicaragua, January 2, 1852.

Sir,

I HAVE the honour to inform you, as the senior officer of Her Britannic Majesty's naval forces at this place, that the Government of the United States has been informed that the British brig of war "Express" has recently fired into the American steamer "Prometheus," while in the act of departing from this harbour, and compelled her to pay certain demands, alleged to be port-charges, claimed by persons acting under the authority of the Local Government.

I am further directed to inform you that, whatever may be the merits of the question as between the captain of the "Prometheus" and the local authorities of Nicaragua, the United States acknowledge no right in the Government or vessels of Great Britain to exercise any police or supervision over American vessels in Nicaragua, or elsewhere, out of the British dominions; on the contrary, the first Article of the Convention between the United States and Her Britannic Majesty relative to Nicaragua, signed April 19, 1850, a copy of which is herewith inclosed, expressly excludes such of the Contracting Parties from assuming or exercising any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America.

I am therefore directed to inform you that no such interference with American commerce and interests on this coast can be permitted by the Government of the United States.

I have, &c.

(Signed) FOXALL A. PARKER,

Commander-in-chief of the United States' Naval Forces in the West Indies, and Commanding Home Squadron.

Inclosure 3 in No. 108.

Commander Fead to Commodore Parker.

Sir,

"Express," Greytown, Mosquito, January 3, 1852.

I HAVE the honour to acknowledge your letter of the 2nd instant, with two inclosures, and, in reply, beg to state that I act under orders from my superiors, and that the merits of the case now entirely rest with the Governments of Great Britain and the United States of America.

You have done me the honour to inclose a copy from a newspaper, containing Captain Churchill's statement which I now deem an official document, and I presume is accepted as such in the United States; and it is with the utmost regret that I perceive the account of the affair, given by the individual the most interested, should have so much weight, because I am sorry to be obliged to contradict that the "Prometheus" was fired into, or even at, or that the first gun was shotted, it being a blank one, and she was then hailed to anchor; nor did a shot even pass over her; in fact, the first shot passed astern, instead of over the "wheel-house on the fore-castle," she then dropping down, stern foremost, with the current, to the entrance of the harbour. I beg respectfully to observe that I could contradict more of that newspaper report, and I should not have thus noticed it had you not inclosed it officially.

I am desirous to remove any wrong impression on your mind, and I regret that the captain of the "Prometheus" should withhold other facts, and acknowledge authority, when convenient, by coming on board the brig I command, a few day previous to his sailing on that occasion, and requesting to know if he could rely on my protection against an attack upon his vessel by some passengers who had threatened it.

Thanking you for the courteous manner in which you have conveyed the sentiments of your Government, I have, &c.

(Signed)

WM. F. FEAD.

Inclosure 4 in No. 108.

Commodore Parker to the City Council of Greytown.

United States' steam-frigate "Saranac,"

Gentlemen,

San Juan de Nicaragua, January 2, 1852.

I HAVE the honour to inform you that the Government of the United States has heard of the late difficulty between the authorities of this place and the American steamer "Prometheus," in regard to the non-payment of certain port-charges alleged to be due to the said authorities, which led to the firing into the "Prometheus" by Her Britannic Majesty's brig "Express."

Whatever may have been the merits of this question, the Government of the United States acknowledge no right in the Government or vessels of Great Britain to exercise any police or supervision over American vessels in Nicaragua or elsewhere, out of the British dominions; on the contrary, the first Article of the Convention between the United States and Her Britannic Majesty relative to Nicaragua, signed April 19, 1850, a copy of which is herewith inclosed, expressly excludes each of the Contracting Parties from assuming or exercising any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America.

At the same time I am instructed to assure the local authorities of this port that the United States will not justify the non-payment of any lawful and proper port-dues on the part of their merchant-vessels, and that they earnestly desire the most friendly relations with the Government of Central America, and will faithfully maintain, on their part, the stipulations of the Treaty already referred to.

(Signed) FOXALL A. PARKER,

Commander-in-chief of the United States' Naval Forces in the West Indies, and Commanding Home Squadron.

Inclosure 5 in No. 108.

The Chairman of the City Council, Greytown, to Commodore Parker.

Sir,

Greytown, Mosquito, January 3, 1852.

ON the part of the City Council of Greytown, I have the pleasure to acknowledge the receipt of your letter of yesterday's date, and am pleased to know that the Government of the United States will not justify the non-payment of any lawful and proper port-charges on the part of their merchant-vessels, and of their desire to maintain the most friendly relations with the local authorities of this place.

On the part of the city authorities, I have the honour to reply that they have at all times felt the most friendly regard for the United States, and have at all times treated their citizens and vessels arriving at this port with every courtesy and attention, and that it is the wish of the inhabitants and the authorities of this place ever to maintain the most amicable and friendly relations with the United States and all other states, powers, and authorities.

I have, &c.

(Signed) JAMES GREEN,
Chairman of the City Council.

Inclosure 6 in No. 108.

Commodore McQuhae to Commander Fead.

By Peter McQuinae, Esq.

HER Majesty's brig under your command being in all respects ready for service, you are hereby required and directed to put to sea to-morrow, the 31st instant, and proceed with all possible dispatch to Greytown, Mosquito, where you will find the "Bermuda." You are to relieve that vessel upon the service in which she is employed, and you will receive from Lieutenant Jolly all unexecuted orders in his possession, and such information as he may have in his power to

communicate, relative to the state of the Kingdom of Mosquito, and Greytown in particular.

You will put yourself in communication with James Green, Esq., Her Majesty's Consul-General. You are to give countenance and support to him, and to British interests generally.

You are to prevent and to resist any encroachment or attack upon the territory of the King of Mosquito, more especially upon Greytown and its environs.

You are to cooperate with Mr. Consul-General Green, rendering him every assistance in your power, and complying with such reasonable requisitions as he may make to you, having in view the protection of the Kingdom of Mosquito, and of Greytown.

It will be desirable that you keep a watchful eye upon the proceedings of numbers of armed men, who frequently arrive in the American steamers, and are not to be trusted; and you are to aid and assist the authorities of Greytown in resisting any lawless attempt to disturb the peace and tranquillity of that place.

You are to continue on the above service until you are relieved, or receive further orders; but during that period you are at liberty to visit St. Andrew's or any of the neighbouring islands to procure supplies, and for the benefit of the health of your crew, bearing constantly in mind that the protection of Greytown is never to be lost sight of.

You will forward to me, for the information of the Commander-in-chief, by every opportunity which may offer, the fullest information of what is taking place in Mosquito, and in Greytown particularly.

You will take every possible means to preserve the health of your crew, never exposing them in boats, or suffering them to be on shore, unnecessarily.

You will receive and convey to Greytown such despatches as may be sent to you by his Excellency the Governor of Jamaica, as also letter-bags from the Postmaster-General.

Dated on board the "Imaum," at Port Royal, October 30, 1851.

(Signed) PETER McQUHAE.

To W. F. Fead, Esq.,

Commander of Her Majesty's brig "Express."

By command of the Commodore,

(Signed) W. S. GRIEVES.

No. 109.

Mr. Crampton to Earl Granville.—(Received March 23.)

My Lord,

Washington, March 8, 1852.

IN obedience to the instructions contained in your Lordship's despatch of the 23rd of January last,* on the subject of the adjustment of the final position which Greytown and the Mosquito territory are to occupy in relation to the contiguous States of Central America, I took an early opportunity of reading that despatch to the Secretary of State of the United States.

Mr. Webster expressed himself in general terms satisfied with the substance and tone of your Lordship's despatch, and he requested me to state that he considered it to present "a fair and proper opening" for a negotiation, which he sincerely desired to bring to such a termination as would be satisfactory to all the parties concerned in the question.

Being, however, about to leave Washington for a few days, he requested me to draw up during his absence a confidential memorandum of the terms which were proposed by Her Majesty's Government for its adjustment, and to add any suggestion which might occur to me of such steps as should appear to be practicable for securing the agreement of Great Britain and the United States upon the subject, without the presence of any Representative from Nicaragua, of which, unfortunately, there did not appear to be any immediate prospect.

I accordingly drew up the paper a copy of which I have the honour to inclose, and submitted it to Mr. Webster upon his return from New York on Friday last, the 5th instant.

It contains in general terms the proposals made by Sir Henry Bulwer in July last. These, I assured Mr. Webster, would, if concurred in by the United States, be satisfactory to Her Majesty's Government, and would be acceded to on the part of the Government of Costa Rica, whose Plenipotentiary is now at Washington; and I reminded Mr. Webster that he had himself stated to Sir Henry Bulwer that he considered them to form a fair basis for an arrangement. With regard to the means of settling this question without the concurrence of a Plenipotentiary on the part of Nicaragua, I however remarked that I felt considerable embarrassment. It was true that Great Britain and the United States might record in a Convention their opinion as to what would be a fair arrangement, with every due regard to the claims and interests of Nicaragua; and it was true that such a record would probably go far to secure the subsequent consent of that Republic to the terms proposed. But could it be expected that a Treaty in which engagements on the part of Nicaragua, as well as cessions to her, were involved, without her having participated in the negotiation, would obtain the concurrence of three-fourths of the Senate of the United States necessary for its ratification?

Mr. Webster felt the full force of this difficulty; and a conversation which, during Mr. Webster's absence, I had with the President of the United States in regard to it, entirely confirmed me in the opinion that nothing could be definitively concluded until the consent of Nicaragua should, in some shape or other, be obtained. It is also to be remarked, that even were such a Treaty, without the concurrence of Nicaragua, to be concluded by the United States' Government, and assented to by the Senate, we should still be without the means of carrying it into practical execution, and be thus left exposed to the inconvenience and danger likely to arise from the present *status quo* at Greytown, the position of which place, in regard to Mosquito and the adjoining Central American States, it was our chief object immediately to determine.

It was from these considerations that it appeared to me to be desirable that the United States and Great Britain should, in the first instance, but without prejudicing or delaying the negotiation of the whole question, agree upon some provisional arrangement as to the light in which Greytown and the authorities thereof should be regarded by the officers of the respective Governments, both with a view to the interests of commerce, and in order to guard against the occurrence of misunderstanding or collision between the naval forces of the two countries, as well as between their subjects and citizens in that place, now much frequented by them, in consequence of the establishment of a transit route through it to California.

Mr. Webster seemed disposed to take this suggestion into favourable consideration.

In the meantime he said, he would examine the propositions contained in the memorandum which I had drawn up, and reduce to writing his own views upon the subject. He concluded, by appointing another interview with me early this week, at which he proposes to communicate these to me, as well as to discuss the suggestion above-mentioned in regard to a provisional arrangement respecting Greytown, and the *de facto* authorities at that place.

With regard to the suggestion made in the memorandum which I have submitted to Mr. Webster, that Greytown might be ceded provisionally to Costa Rica, to be held in trust by her until Nicaragua should come into our terms, I would remark that it was inserted by me at the request of the Costa Rica Minister. I could not, however, encourage M. Molina to expect that this proposal would be favourably received by the United States' Government.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure in No. 109.

Memorandum.

WHEREAS a Convention between the United States of America and Her Britannic Majesty, for facilitating and protecting the construction of a Ship Canal between the Atlantic and Pacific Oceans, and for other purposes, was concluded and signed at Washington on the 19th of April of the year 1850;

And whereas, in the VIth Article of said Treaty, it was stipulated that, "Should any differences arises as to right or property over the territory through which the said Canal shall pass, between the States or Governments of Central America, and such differences should in any way impede or obstruct the execution of the said Canal, the Governments of the United States and Great Britain will use their good offices to settle such difference, in the manner best suited to promote the interests of the said Canal; and to strengthen the bonds of friendship and alliance which exist between the Contracting Parties;" a negotiation was set on foot for the purpose of arranging certain questions with regard to boundaries still pending between the Republics of Costa Rica and Nicaragua, and between those Republics and the Mosquito nation, under the protection of Her Britannic Majesty;

Conferences were held for the purpose, in July last, in which the Plenipotentiaries of Great Britain, the United States, Costa Rica, Nicaragua, were present. Her Britannic Majesty's Plenipotentiary proposed to conclude with Nicaragua a Treaty on behalf the Mosquito nation, by which:

1. Greytown and a district adjoining to the north was to be ceded to Nicaragua for a sum of money to be stated in the Treaty, and at once paid down.

2. Nicaragua was to engage herself not to molest the Mosquito nation within the remainder of their territories, the boundaries of which were, if possible, to be described in the Treaty.

3. Nicaragua was to conclude a Treaty with Costa Rica, by which she was to renounce all claims in regard to territories lying on the southern banks of the San Juan river; Costa Rica renouncing on her part the right of navigating that river or the Lake of Nicaragua by steamers.

4. The disputed questions concerning the district of Guanacaste to be settled in favour of Costa Rica.

5. Greytown to be a free boundary port; no duty, except a moderate one on importations into the interior, to be levied.

These terms appeared at that time to the Secretary of State of the United States to offer a fair basis for an agreement, and were not objected to by the Plenipotentiary of Costa Rica. The Representative of Nicaragua, however, stated that his present instructions did not allow him to assent to them, but engaged himself to refer them to his Government.

Negotiations were accordingly suspended until the Nicaraguan Minister might receive fresh instructions. A considerable time having now elapsed without his having received such instructions, and the existing state of things in Nicaragua rendering it improbable that he should do so within any reasonable period, it becomes necessary for the other parties interested to consider by what means it may be possible to adjust these questions at once in a satisfactory manner, as far as they themselves are concerned, without the concurrence of the Nicaraguan Government.

In order to obtain the object, the following plans are proposed:—

1st. That the Plenipotentiaries of Great Britain, the United States, and Costa Rica, should record in a Convention their agreement to the terms above stated, and that the Government of the United States should engage itself to procure the adhesion of Nicaragua to the same, either by dispatching a special agent to that country, or by such means as they may think proper; the ratifications of such a Convention not to be exchanged until such adhesion shall have been procured.

As considerable delay might occur in procuring the adhesion of Nicaragua, and thus lead to a prolongation of the *status quo* at Greytown, which is attended with considerable inconvenience to the parties interested, it is proposed that a Convention should be signed between Great Britain, on the part of the Mosquito nation, and the Republic of Costa Rica, by which Greytown and the adjoining district to the north of the same, as above described, should be made over to that Republic to be held in trust and to be ceded by her to Nicaragua so soon as the adhesion of the latter to the conditions proposed shall be obtained.

Although the Plenipotentiaries of Great Britain, the United States, and Costa Rica are of opinion that in the terms above proposed due regard has been paid to the claims and interests of Nicaragua, nevertheless the Plenipotentiaries of Costa Rica, animated with a sincere desire of terminating the differences existing between his Government and that of Nicaragua, would be disposed, in

case of objections being still entertained by that Republic to the terms proposed as far as regards those differences, to refer the whole of the questions between Costa Rica and Nicaragua, both as regards territories and the navigation of the River San Juan and the Lake of Nicaragua, to arbitration, that is to say, either to the arbitration of the United States Judiciary or to that of a Board of Commissioners composed of representatives of the Five Central American Republics, elected in the ratio of their population.

No. 110.

Mr. Crampton to Earl Granville.—(Received March 30.)

My Lord,

Washington, March 14, 1852.

I HAD the honour of informing your Lordship in my despatch of the 8th instant, that, from a consideration of the delay which must necessarily occur in the definitive settlement of the questions regarding the position of Greytown, and the inconvenience and danger likely to arise in the meantime from the conflicting views of Her Majesty's Government and that of the United States in respect to the right of possession of the existing authorities at that place, I had suggested to the United States' Secretary of State the expediency of effecting some provisional arrangement, by virtue of which those authorities should be recognised by both parties as a *de facto* body until such time as the result of the negotiation now pending at Washington should have determined the general Central American questions upon which the position of Greytown will ultimately depend; and I stated that Mr. Webster seemed disposed to take this proposal into favourable consideration.

The receipt of your Lordship's despatch of the 20th of February, furnished me with the means of again pressing this proposal more forcibly upon his attention; and I have much satisfaction in stating that it is now about to be acted upon by the United States' Government in a manner conformable to your Lordship's suggestions.

In obedience to your Lordship's instructions I communicated to Mr. Webster the substance of that despatch. In the wish felt by Her Majesty's Government to avoid the possibility of misunderstanding between the citizens and subjects, or of collision between the naval forces of the two countries, Mr. Webster said he entirely concurred; and he stated distinctly that he had by no means held the doctrine which, from the terms of Commodore Parker's communication to Commander Fead of Her Majesty's ship "Express," Her Majesty's Government seemed to infer was that held by the Government of the United States, viz.: "that the United States considered that from the moment of the conclusion of the Convention of the 19th of April, 1850, Great Britain had renounced all title to interfere in the affairs of Greytown and Mosquito, and engaged to relinquish that place and country to the State of Nicaragua." On the contrary he, Mr. Webster, was, he said, well aware that each Government still held its own opinion as to the rights of Nicaragua and Mosquito to Greytown; and it was for this very reason, and in order to remove and reconcile this difference of opinion, admitted to exist, that he was now engaged in negotiations upon the subject with Her Majesty's Legation at Washington.

The proposal of Her Majesty's Government to come to a provisional arrangement for a temporary recognition of the authorities of Greytown as a *de facto* body, appeared to him, he said, fair and reasonable; and he agreed that the best practical means of carrying into effect this object was that both Governments should address to the commanders of their naval forces in the West Indies the necessary instructions for that purpose. Such an instruction to Commodore Parker he would therefore immediately draw up, and, should it appear to me to embrace the object which Her Majesty's Government had in view, he would submit it to the approval of the President forthwith.

With regard to the nature of the municipal regulations at Greytown, which the citizens of the United States should be enjoined to obey, and with regard to the amount of port-dues which they should be enjoined to pay, Mr. Webster said that he was quite satisfied to leave the determination of those questions to the united judgment of Commodore Parker and Admiral Sir George Seymour; and he felt convinced that nothing but what was right and proper would be jointly

sanctioned by those officers. He would therefore propose that they should be instructed respectively to come to an understanding on these subjects, in order that they might lend their united assistance to the authorities of Greytown in enforcing obedience to all regulations which should seem necessary for the preservation of order, as well as the payment of such port-dues as might seem to them fair and reasonable in amount.

These instructions to Commodore Parker have now been communicated to me by Mr. Webster, and I have the honour to inclose a copy of them to your Lordship herewith. I have expressed to Mr. Webster my opinion that they are in conformity with the views of Her Majesty's Government, which I was instructed to make known to him; and I stated that I had no doubt that instructions conceived in a similar spirit would be immediately addressed to Sir George Seymour. The instructions have now been approved by the President, and will be immediately forwarded to Commodore Parker.

I have thought it right to transmit a copy of the same to Sir George Seymour confidentially, for his information, as well as to Mr. Green, Her Majesty's Consular Agent at Greytown.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 110.

Mr. Webster to Commodore Parker.

Sir,

Washington, March 13, 1852.

THE Port of San Juan de Nicaragua, or Greytown, being, as you are aware, the terminus on the Atlantic of the line of transit which has for some time past been in operation between New York and San Francisco, is frequently thronged with passengers between those places. It has also received of late a considerable increase of settlers, many, if not most, of whom are citizens of the United States. Offences against property and persons must necessarily be of frequent occurrence in that place, and their frequency and enormity are likely to increase in proportion to the absence of authority competent to prevent and punish them. The power in existence at Greytown is claimed to be derived from the Mosquito Indians, who have not been, and will not be, acknowledged as an independent nation by this Government. Negotiations are, however, in progress for the removal of all obstacles to the jurisdiction of the Republic of Nicaragua over that port. Meanwhile a temporary recognition of the existing authority of the place, sufficient to countenance any well-intended endeavours on its part to preserve the public peace and punish wrong-doers, would not be inconsistent with the policy and honour of the United States.

Under these circumstances, the President directs that you will repair to Greytown, and in conjunction with Her Britannic Majesty's Admiral on the West India Station, or other officer commanding Her Britannic Majesty's vessels belonging to the squadron under his command, you will see that all reasonable municipal and other regulations in force there are respected by the vessels and citizens of the United States resorting thither. If those regulations should, any of them, be manifestly unreasonable in their nature, and should be improperly enforced, you will, also in concert with Her Britannic Majesty's Admiral or other officer as above, give notice thereof to the authorities, and procure them to be modified accordingly. If any tonnage duties or port charges levied on vessels there should be exorbitant in amount, or discriminating in their nature, or, when collected, should notoriously be applied to improper purposes, you will, in accordance with Her Britannic Majesty's Admiral, protest against them, and do all that may be proper towards having the abuses corrected. The President does not doubt that you will execute these orders with moderation, temper, and firmness, in view of the success of the high public objects by which they have been suggested.

A similar instruction will be addressed by Her Britannic Majesty's Government to the Admiral commanding on the West India Station.

I am, &c.
(Signed) DANIEL WEBSTER.

No. 111.

The Earl of Malmesbury to Mr. Crampton.

Sir,

Foreign Office, April 6, 1852.

I HAVE received and laid before the Queen your despatches of the 8th and 14th ultimo, respecting your communications with the United States' Government on the measures to be taken by the *de facto* recognition of the Government of Greytown; and I have to signify to you the approval of Her Majesty's Government of your proceedings in this matter, and to instruct you to express to the United States' Secretary of State the satisfaction with which Her Majesty's Government have learnt that instructions have been so promptly given to Commodore Parker to place himself in communication with Vice-Admiral Sir George Seymour, and to make arrangements with that officer respecting the course to be pursued by the naval forces of the two countries respectively in regard to Greytown, pending the final settlement of the question between the two Governments.

Her Majesty's Government have lost no time in furnishing similar instructions to Sir George Seymour; and I inclose to you herewith a copy of those instructions, by which you will perceive that, although there are certain expressions in the American instructions to which objection might be taken, Her Majesty's Government have not deemed it necessary to advert particularly to them, inasmuch as Her Majesty's Government entirely concur in the general tenour of the orders which have been given to Commodore Parker.

I am, &c.

(Signed) MALMESBURY.

Inclosure in No. 111.

The Earl of Malmesbury to the Lords Commissioners of the Admiralty.

My Lords,

Foreign Office, April 6, 1852.

I HAVE to acquaint your Lordships that a provisional agreement has been entered into between Her Majesty's Minister at Washington and the Government of the United States for the recognition of the *de facto* governing authorities of the Port of Greytown, or San Juan de Nicaragua, as it is termed by the United States' Government, until some permanent arrangement shall have been concluded for the general and final settlement of the Mosquito and Central American question now pending between Great Britain, the United States, and certain of the Central American States; and I have to signify to your Lordships Her Majesty's commands that instructions be forthwith sent to Vice-Admiral Sir George Seymour, directing him to place himself, either personally or through some judicious officer of his squadron, in communication with the Commander-in-chief of the United States' Naval Forces off Greytown, and to concert and conclude with him such an arrangement as shall appear to them conjointly best suited to carry out the views of the two Governments, as above described, with regard to Greytown.

A copy of the instructions which the United States' Government have addressed to Commodore Parker is herewith inclosed, together with a copy of the despatch* by which Her Majesty's Minister at Washington conveyed that document to Her Majesty's Government, and by which it will be seen that Mr. Crampton has already communicated the American instructions to Sir George Seymour.

Without adverting to particular expressions contained in those instructions to which objection might be taken, your Lordships will acquaint Sir George Seymour that Her Majesty's Government entirely concur in the general tenour of the instructions. It will therefore be unnecessary to enlarge in detail on the authority to be given to Sir George Seymour for the conclusion of the desired agreement, the more especially as the acknowledged judgment and discretion of

* No. 110 and Inclosure.

that distinguished officer give Her Majesty's Government the full assurance that they may leave, with perfect confidence, in his hands, the details of the arrangement to be made.

I am, &c.
(Signed) MALMESBURY.

No. 112.

Mr. Crampton to the Earl of Malmesbury.—(Received April 7.)

My Lord,

Washington, March 22, 1852.

THE intelligence received here of the proceedings of a body of persons styling themselves citizens of San Juan de Nicaragua (Greytown), but most of them, I doubt not, American citizens, at a public meeting held there on the 28th ultimo, a report of which will be found in the extract from the "New York Herald" which I have the honour to inclose, when a series of resolutions was adopted, which could not be carried into execution without the violent expulsion of the existing authorities there, appeared to me to render the position of Her Majesty's Agents and of the officers commanding Her Majesty's ships-of-war in that quarter so critical, and so likely to lead to some misunderstanding or collision between them and the naval forces of the United States on the same station, that I thought it my duty immediately to put myself into communication with the United States' Secretary of State, for the purpose of taking, in concert with him, such measures as might prevent such a result. It is true, as I had the honour of stating in my despatch of the 14th instant to Earl Granville, that the instruction addressed to Commodore Parker, a copy of which was inclosed in that despatch, enjoined upon that officer such a recognition of the authorities of Greytown as a *de facto* body, and such an understanding with Admiral Sir George Seymour, or with other British naval officers on the West India Station, as would obviate to a certain extent the proceedings I have alluded to. Commodore Parker, however, has, it appears, sailed for the Gulf of Mexico, and Sir George Seymour is at Bermuda; so that a considerable time would necessarily elapse before any measures could be concerted between those officers for carrying into effect the views of their Government.

Mr. Webster has therefore judged it advisable to cause an instruction to be addressed to the officer commanding the United States' vessel of war now at Greytown, and this instruction will be carried to its destination by a steamer which leaves New York for Greytown on the 20th instant, and consequently with the least possible loss of time.

I have the honour to inclose herewith a copy of Mr. Webster's letter to the Secretary of the Navy, directing that such an instruction should be sent to this officer; and your Lordship will perceive that if faithfully carried out, it must have the effect of undeceiving those American citizens who may have been led into error in regard to the countenance which they may have been led to expect from their Government in the sort of proceeding they seem now to contemplate.

I have on my own part addressed letters, of which I have the honour to inclose copies, to Her Majesty's Consul at Greytown, and to the senior naval officers on that station, transmitting to them, for their information, copies of Mr. Webster's letter to the Secretary of the Navy, and recommending them to come to such a friendly understanding with the officer commanding the United States' naval force there as may enable them to preserve order and enforce a due submission to the existing authorities, until such time as the definitive political position of Greytown in regard to the neighbouring Central American States shall have been determined by the result of the negotiations upon which I am now engaged with the United States' Secretary of State.

I have endeavoured to impress upon these officers the importance of using every effort to avert the necessity of having recourse to force in order to sustain the just rights of the Mosquito Government at Greytown. The persons who by their violent proceedings are liable to bring themselves into collision with our naval forces are most of them American citizens, and the repression of those acts by force, however justifiable, would cause both in the public and in Congress here a degree of excitement which could not but have a very prejudicial effect upon the negotiation for the settlement of the Mosquito and Central American

questions, which Her Majesty's Government are desirous of carrying on in the most friendly spirit with the Government of the United States.

It is stated in the inclosed report that the measures contemplated by the persons composing the public meeting at Greytown were advised by Captain Green, of the United States' ship "Decatur." This statement, I believe, however, to be entirely unfounded; Mr. Webster having read to me Captain Green's report of the transaction in question to Commodore Parker, by which it appears that Captain Green, though without any special instruction applicable to the case, had done what he could to dissuade American citizens from taking part in the proceedings in question.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 112.

Extract from the "New York Herald."

A MEETING of the citizens of San Juan de Nicaragua was held at the American Hotel, on the evening of February 28, 1852, in pursuance of the following notice:

Public Meeting.

A meeting of the citizens of San Juan de Nicaragua will be held at the American Hotel this evening, at 7 o'clock, for the purpose of discussing the propriety of applying to the Government of Nicaragua for certain corporate privileges.

By the request of many citizens.

Saturday, February 28, 1852.

The meeting was called to order by Mr. Benjamin Mooney, who nominated Mr. William H. De Forest as Chairman of the meeting. On the motion being put to the meeting it was carried unanimously, and Mr. De Forest accordingly took the chair. Mr. Benjamin Mooney was then elected Vice-President, and Mr. William B. Gerring and Dr. R. W. Mackay, Secretaries, and Mr. J. V. Peres interpreter.

The meeting being organized, the Chairman briefly explained the objects of the meeting to be, to endeavour to obtain a Government for this town that would be satisfactory to its citizens, and afford that protection to person and property to which all are alike entitled; and called on the citizens assembled to come forward and give their views and sentiments on the subject, that all may know the grievances we labour under, and what rights and privileges we desire to obtain.

Mr. W. P. Kirkland then, in an able and lengthy speech, stated his views. He objected to the present Government of this town, and urged the necessity of obtaining a more stable, permanent, just and legal Government, and contended it was the duty and interest of the citizens of San Juan to appeal to the rightful owner of the territory, viz., the State of Nicaragua, requesting from her a charter of incorporation, giving and granting to them such privileges, land and power as may enable them to establish a Government of law and order, satisfactory to the citizens of San Juan, and protecting the persons and property of all within its jurisdiction. Mr. Kirkland contended that the present so-called authorities of this town was a temporary Government; that they themselves were in doubt and uncertainty who and what they were, and how to act; that they derived their power and authority from the King of Mosquito, an individual recognized and protected by England, but having no existence or authority accorded or acknowledged by other nations, and whose claim over this territory and existence as a king, was even now a matter of negotiation between the Governments of the United States and England. While these matters are in doubt and uncertainty, we find ourselves without a Government, and without protection alike in our persons and our property, and it is our duty and our interest to go to headquarters—the rightful owner of the soil—the State of Nicaragua, and demand from her a charter of incorporation, so that we can form a Government in which our interests are represented, and by which our persons and our property will

be protected. Mr. Kirkland's views and remarks were coincided in by the meeting with acclamation, and he retired with great applause.

The following resolution was then moved and seconded :

Resolved, that the Chairman appoint a committee of three persons, to draft resolutions expressing the views and sentiments of this meeting, and report such resolutions to the meeting.

The resolution was adopted, and the chair appointed Mr. Gelston, W. P. Kirkland, and Mr. Charles Wendall. During the recess occasioned by the retiring of the Committee to draft resolutions, Mr. J. V. Peres addressed the meeting in Spanish, calling on all to express their views and sentiments fully and freely, and vote according to their knowledge and judgment, yea and nay, to the resolutions which would be presented.

The Committee of three then appeared and reported the following resolutions :

Resolved, That whereas we, the citizens of San Juan de Nicaragua, being desirous to secure for ourselves the liberty and protection to our persons and our interests to which we are entitled, and desiring a Government in which we shall be represented, and by which our persons and our property will be protected; and feeling that action on our part is called for to obtain those privileges which we do not now possess, we do therefore resolve to appoint and delegate such citizens as we have confidence in, to proceed to the capital of the State of Nicaragua, to treat and negotiate with the Government of said State, for a charter of incorporation, giving and granting to us such power and privileges as may enable us to establish a Government, and elect such officers as may rightfully and properly administer such laws and ordinances as may by us be enacted.

Resolved, That the Chairman appoint fifteen delegates to proceed to the capital of Nicaragua, for the purpose of obtaining from that Government a charter empowering the citizens of San Juan to establish a free port, territorial and local Government.

Resolved, That such delegation pay strict attention in procuring a proper guarantee and protection from that Government for all property for which a proper consideration has been paid.

Resolved, That should any of the delegates appointed by the Chair decline acting, that the remaining delegates have full power to act and call such persons to their aid as they may deem expedient.

The resolutions, on being put to the meeting, were carried unanimously.

The resolutions were translated and read in Spanish to the meeting by M. Peres, and were unanimously adopted.

On motion, Resolved, That Mr. W. H. De Forest be the Chairman of the delegation to the Government of Nicaragua. Resolution adopted.

The Chairman then appointed the following named gentlemen as the delegation to the Nicaraguan Government, to carry out the object of this meeting :

Mr. Benjamin Mooney, Don Francisco Alvarado, Mr. R. Gelston, Don Juan Misner, Mr. William B. Gerring, Dr. R. W. Mackay, Mr. Elvino, Don A. Sigana, Mr. W. P. Kirkland, Señor Mancho, Mr. J. V. Peres, Don Ramon Rivas, Mr. W. F. Upham, Mr. Charles Wendall.

These names, with Wm. De Forest as Chairman, were then submitted to the meeting, and unanimously approved of.

On motion, Resolved, That Mr. John Y. Doyle and John Jefferies be added to the delegation. Resolution adopted.

On motion, Resolved, That the thanks of this meeting be returned to Captain Banker, for his offer of a steamer to convey the declaration to Granada. Resolution adopted.

On motion, Resolved, That the delegation will be at Mr. Kirkland's on Monday next, from 10 to 3 o'clock, to receive such suggestions as the citizens may desire to make to them.

On motion, Resolved, That the meeting do now adjourn.

Inclosure 2 in No. 112.

Mr. Crampton to the Senior Naval Officer at Greytown.

Sir,

Washington, March 18, 1852.

IT is with much concern that I have learnt that the proceedings of certain persons styling themselves citizens of San Juan de Nicaragua (Greytown), and more particularly the adoption at a public meeting held at Greytown on the 28th ultimo, have rendered the position of the Commander of Her Majesty's naval forces stationed at that place one of a very difficult and critical nature.

I have thought it my duty, in consequence, to put myself in communication upon this subject with the Secretary of State of the United States, for the purpose of adopting, in concert with him, such measures as may conduce to the friendly understanding of the Commanders of the naval forces of the two countries in that quarter, and may enable them to concert such measures as may put a stop to the proceedings which seem to be contemplated by a part of the inhabitants of Greytown.

The instructions which are to be sent to the officer commanding the naval force of the United States there, and which will be in conformity with the directions contained in the letter from the United States' Secretary of State to the Secretary of the Navy, of which I have now the honour to inclose a copy for your information, will show that such proceedings on the part of American citizens are in no way countenanced by their Government, and when this instruction is acted upon by that officer, it cannot fail to undeceive such persons as may have been led into error in this respect.

It would, however, I would venture to suggest, be very desirable that such a friendly understanding should be come to between yourself, Her Majesty's Consul at Greytown, and the officer in command of such vessels of war of the United States as may be at Greytown, as would enable you to concert with them such measures as shall tend to preserve order and ensure a proper submission to the existing authorities there, until such time as the definitive political position of Greytown shall have been determined by the result of the negotiations now in progress at Washington for that purpose.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure 3 in No. 112.

Mr. Crampton to Consul Green.

Sir,

Washington, March 18, 1852.

I HAVE learnt with great concern that a body of persons styling themselves citizens of San Juan de Nicaragua (Greytown), have, at a public meeting held on the 28th ultimo, adopted a series of resolutions which, if acted upon, would very much aggravate the already critical position of affairs at that place, and which could only be carried into execution by the violent expulsion of the existing authorities there; an attempt to effect which would doubtless be resisted by the Commander of such of Her Majesty's vessels of war as may now be, or might hereafter arrive, at that station.

You are aware that negotiations are now pending at Washington between this Legation and the United States' Secretary of State for the final settlement of the position which Greytown is to occupy in regard to the adjoining Central American States; and it is hoped that this question, as well as the general Central American questions connected with it, will be speedily arranged in a manner satisfactory to all the parties concerned. Proceedings, therefore, of the nature I have alluded to on the part of persons inhabiting Greytown, to whatever nation they may belong, can have no other effect than one injurious to the present interests of the place, without at all influencing the final decision of the Governments interested in this question.

Should British subjects be in any way parties to such proceedings, it will be your duty to use every means in your power to deter them from a course

inconsistent with their duty, as well as detrimental to their interests; and I feel great satisfaction, on the other hand, in being enabled to assure you that proceedings of this nature on the part of American citizens are altogether discountenanced by the Government of the United States.

The instruction addressed to the Secretary of the United States' Navy by the Secretary of State of the United States, bearing this day's date, and of which I inclose a copy for your information, as well as the instruction to Commodore Parker, of which I transmitted to you a copy in my letter of the 14th instant, leave no doubt as to this point; and the proceedings of the officers in command of the United States' naval forces, in consequence, will not fail to undeceive such persons as may have been led into error in this respect.

The necessity of resorting to forcible means for the prevention of the violent and illegal proceedings which seem to be contemplated by certain persons at Greytown, is much to be deprecated; and every effort in your power should be made to avert it. It is, therefore, much to be desired that, with this view, such a friendly understanding should be come to between yourself and the commander of such of the ships of war of the United States as may be at Greytown, for the purpose of taking such measures, in conjunction with the commander of such of Her Majesty's ships of war as may be on that station, as shall preserve order and ensure a proper submission to the existing authorities on the part of persons who reside at or frequent Greytown, until such time as its political position shall be definitively fixed.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure 4 in No. 112.

Mr. Webster to Mr. Graham.

Sir,

Washington, March 18, 1852.

THIS Department learns with much concern that an assemblage of persons styling themselves citizens of San Juan de Nicaragua (or Greytown), was held at that place on the 28th ultimo, which reported resolutions to send a deputation to the capital of the Republic of Nicaragua for the purpose of soliciting from the Government of that Republic a charter for San Juan, and directing the delegates to obtain a proper guarantee of protection from that Government for all property for which a proper consideration has been paid.

It is obvious that, in taking this step, these persons have been unmindful of the fact that the Republic of Nicaragua has not been in possession of the Port of San Juan since 1848. Whatever, therefore, may at any time have been her abstract right of jurisdiction over that port, she cannot, as a party adverse to the one now in possession, grant any privileges or franchises to a third party, in respect to that place. Although those who moved and adopted the resolutions above referred to call themselves citizens of San Juan de Nicaragua, they must, so far as that proceeding goes, be considered as that party. This Department is not informed how many of those who took part in that proceeding had been citizens of the United States. It is not improbable, however, that a majority of them had been so, and that they were not fully sensible of the serious consequences which might result therefrom. It is quite obvious that those persons who attended the meeting, and who had been citizens of the United States, have gone to Greytown with the purpose of settling and abiding at that place. They have placed themselves under a foreign jurisdiction, and whether it be the jurisdiction of the Mosquito Indians, under the protection of England or of Nicaragua, they cannot lawfully claim the protection of this Government as being citizens of the United States. Very serious consequences may happen to them if they undertake to establish a new authority at Greytown under present circumstances; and you will request the commander of the United States' vessel at Greytown to make the contents of this communication fully and immediately known to the persons who acted a leading part in the meeting which has been referred to, in order that they may have timely warning.

They will not be countenanced by the Government in any attempt, forcibly or otherwise, to subvert the acting authorities. They should be informed that a

further and perhaps sufficient reason for forbearance on their part is the fact, of which you have already been apprized, that negotiations are on foot here, which, it is hoped, will soon be concluded, by which the objects they have sought to obtain from Nicaragua may, perhaps, be compassed without impediment from any quarter. It is well understood that Great Britain is fully committed to protect Greytown as belonging to the Mosquito Indians; and it is not at all probable that she would see Nicaraguan authority, or any other authority, take possession till pending negotiations are closed.

An instruction of a similar tenour will be addressed by Her Britannic Majesty's Minister here to the commander of the British vessels of war at Greytown, and to the British Consul there, directing them to give a like warning to British subjects who may have taken part in the proceedings above referred to. It would also be advisable that the naval commanders of the respective nations at San Juan should have a friendly understanding as to the best means of preserving peace and order, and preventing violence of any kind at that place.

I am, &c.

(Signed) DANIEL WEBSTER.

No. 113.

Mr. Crampton to the Earl of Malmesbury.—(Received April 7.)

My Lord,

Washington, March 22, 1852.

WITH reference to my despatch of the 8th instant, I had hoped by the present mail to have been enabled to report to your Lordship the manner in which the suggestions I had made to Mr. Webster in regard to the settlement of the questions regarding Mosquito and the adjoining Central American States have been received by the American Government. These suggestions have been, I am informed, under the consideration of the President; but Mr. Webster having been obliged to leave Washington for some days on important business, the decision of the Cabinet in regard to them has been delayed until his return.

I have, &c.

(Signed) JOHN F. CRAMPTON.

No. 114.

The Earl of Malmesbury to Mr. Crampton.

Sir,

Foreign Office, April 8, 1852.

I HAVE to acquaint you, in reply to your despatch of the 22nd ultimo, that Her Majesty's Government entirely approve of your judicious proceedings in the matter of the attempt made by the inhabitants of Greytown to upset the *de facto* Government there established.

I am, &c

(Signed) MALMESBURY.

No. 115.

Mr. Crampton to the Earl of Malmesbury.—(Received April .)

(Extract.)

Washington, March 28, 1852.

WITH respect to the Mosquito question, it may perhaps save your Lordship some troublesome reference to a number of despatches if I endeavour now to state the present position of the matter, and my own views in regard to it, with the object of ascertaining whether I have rightly apprehended those of Her Majesty's Government.

I mentioned in one of my late despatches that I had, at Mr. Webster's request, sketched out the principal features of the arrangement we would be willing to see made of this question. These were:

First. The cession of Greytown, and a territory to the north of it, by the Mosquitos to Nicaragua for a sum of money.

Secondly. The Mosquitos to be respected in the rest of their territory, the boundary of which was to be defined.

Thirdly. The south bank of the San Juan river to be given to Costa Rica, together with the navigation of that river and the lake for all vessels except steamers (this exception being necessary, because the exclusive privilege of navigating them with steamers has been already granted to the Interoceanic Canal Company).

Fourthly. The province of Guanacaste to be given to Costa Rica.

I submitted this plan to Mr. Webster, who appointed a day to confer with me on the subject. He accordingly admitted me to an interview at the time fixed; but I do not think that he had in the interval been able to give much consideration to the matter. He called one of his clerks, however, and dictated to him, somewhat hastily, what he said were some of his ideas in regard to it.

The points upon which his propositions differed from mine, and which appeared to me to be of importance, were:

1. He seemed to propose that Greytown should be ceded to Nicaragua without an equivalent; observing, that Nicaragua was totally destitute of funds, and would not be able to find the sum of money we required.

2. Instead of a recognition or an arrangement on the part of Nicaragua not to molest the Mosquitos in the rest of their territory, he proposed a simple recommendation to the Nicaraguans and Mosquitos to unite themselves together; the Mosquitos being received as Nicaraguan citizens; adding a proviso, which he seemed to think implied a sufficient recognition of our position as protectors of Mosquito, that, if this arrangement were objected to by either party, a sum of money was to be paid to the Mosquitos for their "possessory rights." The latter part of this, I would remark, is somewhat in contradiction to Mr. Webster's objection to my first Article.

I told Mr. Webster frankly that I did not think that these proposals were admissible, or consistent with the position we had, always maintained with regard to Mosquito, and from which he must feel that we could not honourably recede, although we were perfectly ready to make such arrangements as would prevent it from causing inconvenience to any party, or creating jealousy in any quarter.

The cession of Greytown to Nicaragua, without an equivalent to Mosquito, would, I said, be little else than an unqualified recognition of the claim of Nicaragua to that place, which claim we had always denied, and had forcibly resisted.

The mere recommendation of an incorporation of the Mosquitos with the Nicaraguans amounted, in fact, to nothing more than the cession of the territory of the latter to the former; for the notion which Mr. Webster seemed to entertain, that the reception of the Mosquitos as citizens of Nicaragua, or the purchase of their "possessory rights," would constitute by implication a sort of recognition of their independence and of our Protectorate, was not, I remarked, applicable to the case, being founded upon the supposition that the condition of the Mosquitos was similar to the condition and status of Indian tribes in the territories of the United States, and could be dealt with on the principles upon which Indians are dealt with by the United States' Government. This, however, is not the case; the Constitutions of the Spanish-American Republics not admitting the application of those principles, which, in fact, have never been acted upon in Spanish America. In the United States, the State regards all territories within its limits as appertaining to itself, as far as foreign nations are concerned; but, nevertheless, it makes Treaties with Indian tribes within those territories for the purchase of what are called their "possessory rights," and for their removal from one district and their settlement in another; thus implying the recognition of a "quasi" independence, but not adopting them as citizens of the United States—at least, not without the fulfilment on their part of other conditions. In Spanish America, on the other hand, every inhabitant of a State, Indian or Spaniard, is, *ipso facto*, a citizen thereof. An engagement, therefore, on the part of Nicaragua to adopt the Mosquitos as citizens, in consideration for the cession of their territory, would be illusory, inasmuch as, if the right of Nicaragua to the territory was admitted purely and simply, the Mosquitos would become Nicaraguan citizens without any such engagement.

Mr. Webster did not combat this reasoning, but merely said, "Well, draw up the Articles in such a way as you think your Government can accept them, and make such other improvements and conditions as occur to you, and, when you have done so, send me the paper, and I will submit it to the President."

I accordingly drew up the paper which I now inclose, as a sketch of what might form a basis for an arrangement.

As Mr. Webster seemed to lay a good deal of stress on the importance, with a view to the Treaty obtaining the sanction of the Senate, of there being some provision made which should clearly show that Her Majesty's Government had no desire to do more than afford a proper protection to the interests of the Mosquitos, without any ulterior object, and that a provision for the future voluntary union of these people with Nicaragua would have that effect; and as the President, with whom I had afterwards a short conversation on the subject, seemed to share the same opinion, I inserted the Article No. 2, stating at the same time that no instruction I had received from Her Majesty's Government had ever touched upon that point, and that it would, consequently, be necessary to refer it to your Lordship.

With regard to the boundaries, described in the first Article, I did not think it very essential that the western boundary of Mosquito should run close to any of the parts of Nicaragua in which there might be Settlements. The Mosquito people, in fact, are scattered along the coast, and the more inland parts of what has been included in their territory, by the line drawn approximately by Mr. Consul Walker, is, if inhabited at all, inhabited by a very small number of Indians of other tribes. I therefore drew a line, which seemed to leave to Nicaragua as much as could be left consistently with an ample territory for the Mosquitos; and, from the difficulty of finding any rivers, or other material boundaries, by which to fix this line (all the maps of the country which I have seen differing considerably from each other,—the country, in fact, never having been properly explored), I preferred an astronomical line, as that by which a clearer idea would be conveyed. This project I have shown to Mr. Webster, but he has unfortunately been called away from Washington on important business, so that I have not had an opportunity of again conversing with him on this subject. He is, however, shortly expected to return.

I am the more anxious to come to some conclusion of this affair, from the intelligence we have lately received of the proceedings of the Americans who are congregated at Greytown, and which are not a little calculated to force us into some collision with them. Any occurrence of that sort would, I fear, cause great excitement and outcry here, however much in the right we might be.

Our great difficulty in bringing this question to a conclusion, is the anarchical condition of Nicaragua.

Inclosure in No. 115.

Project of Agreement for the Settlement of the Mosquito Question.

THE Undersigned, Daniel Webster, Secretary of State of the United States, John F. Crampton, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty, and Felipe Molina, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Costa Rica to the Government of the United States; having taken into consideration the state of the relations between the Republics of Costa Rica and Nicaragua in respect to the boundaries between those Republics, and between the Republic of Nicaragua and the Mosquito Indians; and being mutually desirous that all pending differences respecting those questions should be amicably, honourably, and definitively adjusted, do, in behalf of their respective Governments earnestly recommend to the Government of the Republic of Nicaragua an accommodation upon the following basis:

1. That the Mosquito Indians shall relinquish all claims to Greytown and to a district of country to the north thereof, bounded by a line drawn from the mouth of the River Rama (situated at 11° 34' north latitude, and 83° 46' west longitude from Greenwich, according to Baily's Map of Central America,

published in London in November 1850), due west to the meridian of $84^{\circ} 30'$ west longitude from Greenwich.

In consideration of this relinquishment on the part of the Mosquito Indians, the Government of Nicaragua shall engage to pay them the sum of

But if the Government of Nicaragua shall neglect or shall allege its inability to pay the said sum, then a duty of _____ per cent. on the value of merchandize imported into Greytown for consumption in the said Republic of Nicaragua shall be charged and set aside for the payment of the said sum, until it shall have been fully liquidated by the said Republic of Nicaragua. And the said Republic of Nicaragua shall engage not in any way to molest or interfere with the Mosquito Indians in the remainder of the territory claimed by them, that is to say, within the territory comprised within the following limits, viz. : A line drawn from the mouth of the River Rama as above described, due west to the meridian $84^{\circ} 30'$ west longitude from Greenwich, and from thence a line drawn due north to its intersection with the Wanx or Fantasma river, and from thence following the course of the said Wanx or Fantasma river to the sea. It being understood that all the territory lying to the east of this line, hitherto disputed between the Mosquito Indians and the State of Nicaragua, is relinquished by the former to the latter.

2. It is understood that nothing in the preceding Article shall preclude the conclusion of such voluntary compact and arrangement between the State of Nicaragua and the Mosquito Indians, by which the latter should be definitively incorporated and united with the State of Nicaragua; it being stipulated that, in such case, the said Mosquito Indians shall enjoy the same rights and be liable to the same duties as the other citizens of the said State of Nicaragua.

3. That the municipal and public authority in the town of Greytown be held and exercised by the Government of Nicaragua; but said Government shall lay no duties of tonnage nor any duties of import on goods imported into Greytown intended for transit across the isthmus, or for consumption in any other State than that of Nicaragua, except such a duty or tonnage as may be necessary for the preservation of the port and harbour; and no duty for this or similar purposes shall exceed, say 12 cents per ton.

4. That Nicaragua shall relinquish to Costa Rica all the territory on the southern bank of the San Juan river, from the sea to the Lake of Nicaragua; and that the jurisdiction over the said river be exercised by the States of Nicaragua and Costa Rica jointly, upon the principle usually agreed upon between States possessing the opposite banks of rivers; Costa Rica, however, renouncing her right to navigate the said river by steam-vessels, and all jurisdiction over the same.

5. That the dispute between Nicaragua and Costa Rica concerning the district of Guanacaste, the boundaries of the same, and the navigation of the Great Lake, shall be settled in favour of Costa Rica, with the same renunciations in regard to steam-vessels and the jurisdiction thereof, as stated in the preceding Article; it being always understood that the same securities and advantages stipulated in favour of the Canal Company by Article 6 shall extend to the border of the lake belonging to Costa Rica.

6. That neither the Government of Nicaragua nor the Government of Costa Rica shall be at liberty to erect, or suffer to be erected, any wharf, wall, embankment, or other structure, or to do, or suffer to be done, any act or thing whatever in the harbour of Greytown, or in any part of the San Juan river, which shall obstruct the free operations of the Ship-Canal, or hinder the passage of their boats in, along, and through the said harbour of Greytown and River San Juan. And if, after a proper survey of the route for a Ship-Canal between the two oceans, it shall be found that it would be preferable for that Canal to pass in part along the southern bank of the River San Juan, the Government of Costa Rica engages to grant any lands and to afford any facilities which may be necessary for the construction of the said Canal.

7. And whereas it is stipulated by the Convention concluded at Washington between Great Britain and the United States on the 19th of April, 1850, Article II, that vessels of the United States or Great Britain traversing the intended Canal from the Atlantic to the Pacific Oceans, shall, in case of war between the Contracting Parties, be exempted from blockade, detention, or

capture, by either of the belligerents; and that this provision shall extend to such a distance from the two ends of the said Canal as shall hereafter be found expedient to establish, it is hereby agreed upon and established, that such exemption shall be observed by the Contracting Parties within two such spaces towards the sea as would be inclosed by the segments of circles having radii of the length of twenty-five nautical miles, and whose centres should be situated at the two ends of the said Canal.

8. Whereas by Article VII of the Convention of the 19th of April, 1850, between Her Britannic Majesty and the United States, it was stipulated that if any persons or company should already have made with any State through which the proposed Ship-Canal may pass, a contract for the construction of such Canal as that specified in this Convention, to the stipulations of which contract neither of the Contracting Parties to this Convention have any just cause to object, and the said persons or company shall, moreover, have made preparations and expended time, money, and trouble, on the faith of such contract, it is hereby agreed that such persons or company shall have a priority of claim over every other person, persons or company, to the protection of the Government of the United States and Great Britain, and be allowed a year from the date of the exchange of the ratifications of this Convention for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood that if, at the expiration of the aforesaid period, such person or company be not able to commence and carry out the proposed enterprise, then the Governments of the United States and Great Britain shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the Canal in question. And whereas at the time of the signature of the said Convention, a company styled the American Atlantic and Pacific Ship-Canal Company had, with the Government of the Republic of Nicaragua, a contract for constructing a Ship-Canal between the said oceans, but, for reasons deemed sufficient by the Governments of Great Britain and the United States, have not hitherto been able to comply with the stipulation which gave them a claim to the protection of the said Governments; and whereas no other company has claimed such protection on the same conditions, it is agreed that the further time of shall be allowed the said company to comply with the stipulation aforesaid.

No. 116.

Mr. Crampton to the Earl of Malmesbury.—(Received April 19.)

My Lord,

Washington, April 5, 1852.

MR. WYKE, Her Majesty's Consul-General in Central America, has arrived here on his way to his post at Guatemala.

I took an early opportunity of presenting Mr. Wyke to the President of the United States, who conversed with him fully and freely on the subject of the negotiations regarding the position of Greytown, and the boundaries of Nicaragua and Costa Rica.

Mr. Webster, who has been absent for some days, has now returned to Washington; and I hope shortly to have, in conjunction with Mr. Wyke, a renewed conference with him upon these questions.

Should we be able, within the next few days, to come to an agreement in regard to the basis upon which a Treaty may be concluded, it is suggested to me by the President that it would be well that Mr. Wyke should accompany the American Agent whom it is intended to dispatch to Central America for the purpose of obtaining the adhesion of Nicaragua to the terms proposed.

The entire agreement of the views of the Governments of Great Britain and the United States would be thus rendered apparent, and the Nicaraguan Government would probably see that it is their true interest to conclude the business without further delay.

The President is also of opinion that Mr. Wyke's presence at Greytown would be very useful in the present critical condition of that place.

As I entirely concur in these views, I have suggested to Mr. Wyke the expediency of his remaining a few days longer at Washington, should there

appear to be a fair prospect of his being thus enabled to be the joint bearer of the proposed basis for a Treaty with Nicaragua; and of his proceeding to his post by way of Greytown, instead of by Belize, as at first intended.

I have, &c.

(Signed) JOHN F. CRAMPTON.

No. 117.

The Earl of Malmesbury to Mr. Crampton.

Sir,

Foreign Office, April 23, 1852.

I HAVE to acquaint you in reply to your despatch of the 5th instant, that I approve of your having detained Mr. Wyke at Washington; and that it is extremely desirable that Mr. Wyke should, in accordance with the suggestion of the President of the United States, delay his departure for Central America until the negotiations between the two Governments have arrived at such a stage as to admit of Mr. Wyke's being accompanied by the United States' Agent.

You will communicate the substance of this despatch to Mr. Wyke.

I am, &c.

(Signed) MALMESBURY.

No. 118.

The Earl of Malmesbury to Mr. Crampton.

Sir,

Foreign Office, April 23, 1852.

I HAVE submitted to the consideration of Her Majesty's Government the sketch of a proposed arrangement with regard to the Mosquito question, which was inclosed in your despatch of the 28th ultimo, and I have to state to you that Her Majesty's Government are prepared to give their assent to that arrangement.

I transmit to you a copy of the draft in question, in which you will observe that some alterations have been made, which however, with two exceptions, are only of a verbal nature, and intended to secure greater clearness of expression. The two exceptions to which I refer, occur in section 4. I think it would be better to stipulate expressly that both Nicaragua and Costa Rica shall have an equal right of navigating the San Juan, than that they shall exercise jurisdiction over it "jointly upon the principle usually agreed upon between States possessing the opposite banks of rivers." It appears to me also that it would not be right to call upon Costa Rica to renounce, in perpetuity, the right of navigating the San Juan with steam-vessels; but that the renunciation to that right should be limited to the period for which the exclusive privilege of navigating the river with steam-vessels has at the present time been conceded to the Inter-oceanic Canal Company.

The mode of proceeding to carry out this arrangement would, I presume, be, that the agreement should be signed by yourself, Mr. Webster, and M. Molina, and then be officially communicated to the Government of Nicaragua through their Minister at Washington, with a view, in the event of the arrangement being accepted by the Government of Nicaragua, to its being converted into a Treaty between the four States. It has therefore seemed advisable to add another Article to the draft of Agreement, defining the course which it is intended to adopt in this respect.

If the Government of Nicaragua should refuse to concur in the proposed arrangement, it will then be for the other three parties to determine afresh what course they would then adopt.

I will by an early opportunity transmit to you full powers which will enable you to sign as the Plenipotentiary of Her Majesty, a Treaty containing the

arrangements which may ultimately be come to on this subject, or on any other subjects which may come into negotiation between Great Britain and the United States.

I am, &c.
(Signed) MALMESBURY.

Inclosure in No. 118.

Draft of Proposed Agreement with respect to the Mosquito Question.

THE Undersigned, Daniel Webster, Secretary of State of the United States, John F. Crampton, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty, and Felipe Molina, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Costa Rica to the Government of the United States, having taken into consideration the state of the relations between the Republics of Costa Rica and Nicaragua, in respect to the boundaries between those Republics, and between the Republic of Nicaragua and the Mosquito Indians, and being mutually desirous that all pending differences respecting those questions should be amicably, honourably, and definitively adjusted, do, in behalf of their respective Governments, earnestly recommend to the Government of the Republic of Nicaragua, an accommodation upon the following basis :

1. That the Mosquito Indians shall relinquish all claims to Greytown and to a district of country to the north thereof, bounded by a line drawn from the mouth of the River Rama (situated at 11° 34' north latitude, and 83° 46' west longitude from Greenwich, according to Bailey's map of Central America, published in London in November 1850), due west to the meridian of 80° 30' west longitude from Greenwich.

In consideration of this relinquishment on the part of the Mosquito Indians, the Government of Nicaragua shall engage to pay to the Chief of the said Mosquito Indians the sum of ; but if the Government of Nicaragua shall neglect, or shall allege its inability to pay the said sum, then a duty of per cent. on the value of merchandize imported into Greytown for consumption in the said Republic of Nicaragua, shall be charged, and set aside for the payment of the said sum until it shall have been fully liquidated by the said Republic of Nicaragua ; and the said Republic of Nicaragua shall engage not in any way to molest or interfere with the Mosquito Indians in the remainder of the territory claimed by them ; that is to say, within the territory comprised within the following limits, viz., a line from the mouth of the River Rama, as above described, due west to the meridian 84° 30' west longitude from Greenwich, and from thence a line drawn due north to its intersection with the Wanx or Fantasma river, and from thence following the course of the said Wanx or Fantasma river to the sea. It being understood that all the territory lying to the west of this line, hitherto disputed between the Mosquito Indians and the State of Nicaragua is relinquished by the Mosquito Indians to Nicaragua.

2. It is understood that nothing in the preceding Article shall preclude the conclusion of any voluntary compact and arrangement between the State of Nicaragua and the Mosquito Indians, by which the latter should be definitively incorporated and united with the State of Nicaragua ; it being stipulated that in such case the said Mosquito Indians shall enjoy the same rights and be liable to the same duties as the other citizens of the said State of Nicaragua.

3. That the municipal and public authority in the town of Greytown or San Juan de Nicaragua be held and exercised by the Government of Nicaragua, but that said Government shall lay no duties of tonnage or impost on such goods as may be imported into Greytown for transit across the Isthmus, or for consumption in any State other than that of Nicaragua, save and except such moderate duty on tonnage as may be required for the maintenance of the port and harbour of Greytown or San Juan de Nicaragua, and for that object alone. And such tonnage duty shall never exceed 12 cents per ton.

4. That Nicaragua shall relinquish to Costa Rica all the territory on the southern bank of the San Juan river, from the mouth of that river to the Lake of Nicaragua, and that the jurisdiction over the said river be exercised by the States of Nicaragua and Costa Rica jointly, upon the principle that each State shall have an equal right to the navigation of the river ; Costa Rica, however to

renounce, during the continuance of the exclusive right which has at present been granted to the Inter-oceanic Canal Company to navigate the said river by steam-vessels, all right to navigate the said river by steam-vessels, and all jurisdiction over such steam-vessels.

5. That the question which now exists between Nicaragua and Costa Rica concerning the right to the district of Guanacaste, to the boundaries of the same, and to the navigation of the Lake of Nicaragua, shall be settled in favour of Costa Rica; Costa Rica, however, making the same renunciation in regard to steam-vessels, and all jurisdiction over such vessels, as are provided in the preceding Article, it being always understood that the same securities and advantages which are stipulated in favour of the Canal Company by Article 6 shall be extended to the border of that part of the lake which is thus declared to belong to Costa Rica.

6. That neither the Government of Nicaragua nor the Government of Costa Rica shall be at liberty to erect, or to suffer to be erected, any wharf, wall, embankment, or other structure, or to do or suffer to be done any act or thing whatever in the harbour of Greytown, or in any part of the San Juan river, which shall in any way obstruct the free operations of the Ship-Canal Company, or impede the passage of their boats in, along, and through the said harbour of Greytown and River San Juan. And, if after a proper survey of the route for a Ship-Canal between the two oceans, it shall be found that it would be preferable for that Canal to pass in part along the southern bank of the River San Juan, the Government of Costa Rica engages to grant any lands and to afford any facilities which may be necessary for the construction of the said Canal.

7. And whereas it is stipulated by Article II of the Convention concluded at Washington between Great Britain and the United States, on the 19th of April, 1850, that vessels of the United States, or of Great Britain, traversing the intended Canal from the Atlantic to the Pacific Oceans, shall, in case of war between the Contracting Parties, be exempted from blockade, detention, or capture, by either of the belligerents, and that this provision shall extend to such a distance from the two ends of the said Canal as it shall hereafter be found expedient to establish, it is hereby agreed upon and established that such exemption from molestation shall extend to a distance of twenty-five nautical miles in every direction from the ends of the Canal on the east and on the west.

8. Whereas by Article VII of the Convention of the 19th of April, 1850, between Her Britannic Majesty and the United States, it was stipulated that if any persons or company should already have made with any State through which the proposed Ship-Canal may pass, a contract for the construction of such a Canal as that specified in this Convention, to the stipulations of which contract neither of the Contracting Parties to this Convention have any just cause to object, and if the said persons or company shall, moreover, have made preparations and expended time, money, and trouble, on the faith of such contract, it is hereby agreed that such persons or company shall have a priority of claim over every other person, persons, or company, to the protection of the Government of the United States and of Great Britain, and be allowed a year from the date of the exchange of the ratifications of this Convention for concluding their arrangements and presenting evidence of sufficient capital having been actually subscribed to insure the accomplishment of the contemplated undertaking; it being understood that if, at the expiration of the aforesaid period of one year, such persons or company have not commenced the proposed enterprise, then, and in that case, the Governments of the United States and Great Britain shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the Canal in question. And whereas at the time of the signature of the said Convention, a Company styled the "American Atlantic and Pacific Ship-Canal Company" had concluded with the Government of the Republic of Nicaragua a contract for constructing a Ship-Canal between the said oceans; but, for reasons deemed sufficient by the Governments of Great Britain and the United States, have not hitherto been able to comply with the stipulation which gave them a claim to the protection of the said Governments; and whereas no other company has claimed such protection on the same conditions, it is agreed that the further time of shall be allowed to the said Company to comply with the stipulations aforesaid.

9. The present Articles shall be communicated by the Plenipotentiaries of Great Britain and of the United States to the Government of the Republic of

Nicaragua, through the Minister of that Republic at Washington, or in some other manner as may be deemed most advantageous ; and if the Government of Nicaragua should assent to the arrangements proposed therein, the said Articles shall, with the least possible delay, be converted into a formal Treaty between Great Britain, the United States, Costa Rica, and Nicaragua.

No. 119.

The Earl of Malmesbury to Mr. Crampton.

Sir,

Foreign Office, April 23, 1852.

WITH reference to my previous despatch of this date, in which I have stated to you that Her Majesty's Government are ready to assent to the plan which you have proposed for the settlement of the Mosquito question, I think it right to mention that as, according to the draft of agreement which you have transmitted to me, the Government of Costa Rica is to be a party thereto, I take for granted that you have good reason to believe, from your communications with M. Molina, that the arrangement in question will be acceptable to his Government.

I am, &c.

(Signed) MALMESBURY.

No. 120.

Mr. Crampton to the Earl of Malmesbury.—(Received May 3.)

My Lord,

Washington, April 19, 1852.

WITH reference to my despatches dated the 14th and 22nd ultimo respectively, inclosing copies of letters addressed by me to Her Majesty's Consul at Greytown, and to the senior naval officer on that station, informing them of the agreement come to between Her Majesty's Government and that of the United States, to enforce a due submission to the present authorities of that place, I have now the honour of inclosing copies of the replies which I have received to those communications.

Your Lordship will perceive with satisfaction that a better state of things prevails at Greytown than the latest advices which we received from thence gave us reason to expect ; and that the good understanding between the two Governments, which has been made apparent by the joint action of the British and American naval officers on that station, is likely to defeat the plans of such of the American inhabitants as were inclined to have recourse to violent proceedings, under the notion that they would be countenanced by their own Government.

With reference to those parts of Mr. Green's and Commander Cochrane's letters which regard the land titles granted by the Mosquito Government, I have proposed to the Government of the United States to introduce into the proposed Treaty an Article by which such lands shall be secured to the purchaser ; provided, however, that the grants have been made *bona fide* for an adequate consideration, and that the occupation of such lands shall not interfere with the necessary facilities for the construction of the ship-canal and transit route, and shall not be required by the future Government of Greytown for public purposes.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 120.

Consul Green to Mr. Crampton.

Sir,

Greytown, April 2, 1852.

I HAVE the honour to acknowledge the receipt of your letter with its inclosure dated March 14, 1852, and also your letter with its inclosure dated March 18, 1852.

I regret much that the arrangement between the two Governments mentioned in the former had not been in force before, as the joint action of the Governments of the United States and Great Britain, so necessary in an important and crowded port, would have prevented many and unavoidable occurrences consequent on the inability of the Mosquito Government to enforce a compliance with the established regulations.

In reply to your letter of March 18, I beg to assure you that every effort in my power will be given to the prevention, by mild means, of any participation by British subjects in illegal meetings. I must also assure you that no British subjects or old residents have as yet in any way mixed themselves up with the parties alluded to in your despatch. With but one or two exceptions they are all strangers, numbering about twenty-five, possessing neither property nor influence, and not one of the number claiming more than two or three months' residence. They are adventurers from the United States who have rested here on their way to California, and now look for offices to be obtained from the State of Nicaragua, as the fruits of their agitation.

I trust, therefore, that no undue importance may be attached to the proceedings of these people, or that either Government may be led to suppose that the wishes of these few adventurers embody the sentiments of the majority of the inhabitants of Greytown.

I beg also to inclose a letter from Mr. Foote, who acted for me during my absence at Blewfields on Government service and during the time the meeting was held.

I have, &c.
(Signed) JAMES GREEN.

Inclosure 2 in No. 120.

Acting-Consul Foote to Consul Green:

(Extract.)

Greytown, March 20, 1852.

I HAVE to report to you that a meeting was held at this place on the evening of the 28th ultimo, composed of a portion of American citizens residing in this town and a few strangers.

The object of the meeting, as expressed in a notice which was posted up in several places throughout the town, was for the purpose of discussing the propriety of applying to the Government of Nicaragua for certain corporate privileges.

On reading the above notice, I requested a person residing in the town to attend and mark the tendency of the resolutions, and also, if possible, to ascertain who the projectors were, and to what extent they might proceed in any measure tending to incite the evil-disposed of the place to a resistance of the present authorities.

On the following day a report was delivered to me of the proceedings, which, on due consideration, I considered of such trifling consideration (as far as Nicaragua was concerned) that I had no fears of the probability of that Government acting upon such an invitation or countenancing the delegates in any way.

One circumstance, however, connected with the affair gave me a little uneasiness; this was the report current in the town that the Commander of the United States' ship "Decatur" intended proceeding to Grenada in company with the delegates, and also my constantly hearing his name mentioned in connection with the meetings and the proceedings of the members.

I therefore considered it a matter of courtesy due to Commander Green

that these reports should be made known to him in a private manner, so that an opportunity might be given him to refute what I considered the calumnies against him, and at the same time disabuse his countrymen of any idea of his participation in their proceedings. I therefore requested Commander Cochrane, of Her Majesty's ship "Sappho," to mention privately the circumstances to Commander Green. This was done; and, as I expected, an instant disavowal was made by the Commander of the "Decatur" of any connection with the affair. At the same time he assured Commander Cochrane that, although he did intend proceeding to Grenada in the same steamer with the delegates, it was for other purposes. Commander Green also, and I think very wisely, gave up the trip.

This action on the part of Commander Green has, as I foresaw it would, fairly thwarted the intention of the delegates, who fancied that, although not connected with them in any way, still his name, as being in company with them, would serve their purpose with the Nicaraguans.

It has also produced a better order of things here. The more respectable members have withdrawn from their body, and the people have since then relapsed into a quiet and orderly submission to the authorities of the town.

Inclosure 3 in No. 120.

Consul Green to Mr. Crampton.

Sir,

Greytown, April 8, 1852.

I HAVE sent by the "Daniel Webster" a letter in reply to your two despatches of March 14 and 18.

The instructions forwarded by the Government at Washington will be a great service, inasmuch as they will undeceive certain parties here of any tacit approval of their proceedings by the United States' Government.

There is one circumstance connected with any future disposition of this place which is of the utmost importance, and that is, the land titles granted by the Mosquito Government to individuals for lands sold to them by the Mosquito Government through Her Majesty's Agent, as acting for that Government and with the sanction of Lord Palmerston.

In settling the terms of any Convention or transfer, it would be as well, and but justice to the purchasers, to give it a prominent and well-defined place in the Articles. Without this is done, I foresee that many difficulties may arise in the event of a new Sovereignty being established.

The United States' ship "Decatur" has left on a short cruise in search of a small steamer said to be taken possession of by an individual in contravention of the orders of the owner. In the meantime the commander of the "Decatur" has left a letter authorizing the Commander of Her Majesty's ship "Sappho" to act for him in all matters connected with the vessels and citizens of the United States.

I have, &c.
(Signed) JAMES GREEN.

P.S.—I would feel much obliged by an early reply to my request respecting the land titles; by the return of the "Daniel Webster" if possible.

J. G.

Inclosure 4 in No. 120.

Captain Cochrane to Mr. Crampton.

Sir,

"Sappho," at Greytown, April 4, 1852.

I HAVE the honour to acknowledge the receipt of your letter of the 18th ultimo, addressed to the Senior Naval Officer at Greytown, together with its inclosure.

At a meeting which was held by some of the inhabitants on the evening of February 28, delegates were elected to proceed to Nicaragua to petition that

State to grant them certain privileges. These delegates have not yet left, nor does it seem probable that they will.

The town is at present tranquil, and I may state with confidence that I think no outrage or flagrant breach of the peace will take place. Were it possible to intimate to landowners that their grant would still be valid under any change of Government, I think it would tend much to allay public anxiety. I understand from Commander Green, of the United States' ship "Decatur," that he will use his exertions to maintain tranquillity and order.

Much anxiety is manifested for the settlement of the expected Treaty between Great Britain and the United States.

I have, &c.
(Signed) ARTHUR A. COCHRANE.

No. 121.

Mr. Crampton to the Earl of Malmesbury.—(Received May 16.)

(Extract.)

Washington, May 3, 1852.

I HAVE the honour to inclose the copy of a paper signed by Mr. Webster and myself, setting forth the terms which we have agreed upon as proper for the general basis of a Treaty by which the position of Greytown, and the questions of boundary in regard to which the Republics of Nicaragua and Costa Rica are at issue, may be definitively settled.

This basis, as is stated in the concluding Article, is advisory and recommendatory on the part of Great Britain and the United States, and the prompt adoption of it by the Governments of Costa Rica and Nicaragua is earnestly invoked. Those Governments are, moreover, informed that, should they not concur therein, the Governments of Great Britain and the United States will immediately proceed to determine, as between themselves, upon such measures as to them shall appear advisable to carry into execution the Convention in regard to any Interoceanic Canal, concluded between them on the 19th of April, 1850.

As it is on many accounts very desirable that an effort should be made to bring this affair to a conclusion before the expiration of the present session of the Congress of the United States, I have thought it right to comply with Mr. Webster's suggestion that our proposal should at once be sent to Central America, and submitted to the Governments of Nicaragua and Costa Rica respectively, with the least possible delay. For which purpose Mr. Walsh, a gentleman of ability and experience, has been named special agent of the United States to convey the proposal to Costa Rica, while instructions have been addressed to Mr. Kerr, the United States' Chargé d'Affaires in Nicaragua, to submit it simultaneously to that Government.

Mr. Wyke, Her Majesty's Consul-General in Central America, being now at Washington, I have suggested that it would be well that he should proceed by way of Greytown to his post, and, in concurrence with the American agents, communicate, on the part of Her Majesty's Government, to the Governments of Costa Rica and Nicaragua the terms now agreed upon as a basis for a definitive arrangement.

The United States' steam-frigate "Saranac" having been directed to convey Mr. Walsh to Greytown, Mr. Webster has obligingly proposed that Mr. Wyke should be accommodated in that vessel; and as it appears to me that the simultaneous arrival of the British and American agents at Greytown in this manner will not be without its favourable effect upon the people of that place, as well as upon the Central American Governments, I have not hesitated to accept this offer.

The instructions given to the American Agents are to press upon the Governments of Costa Rica and Nicaragua the immediate conclusion between themselves of a Treaty in conformity with the terms proposed, as far as these regard the points on which those Governments are at issue. Should this be accomplished, they are to be moved to instruct their Agents at Washington, or to dispatch others thither, empowered to conclude a quadripartite Treaty to the same effect, to which Great Britain and the United States would be parties, and in which the whole of the necessary arrangements would be embraced.

I have suggested to Mr. Wyke to concur with Mr. Kerr and Mr. Walsh in recommending this course.

It would have, no doubt, been much more satisfactory to me to have been able to refer the present basis of an arrangement to your Lordship's approval, before sending it to Central America. In not doing so, I have been actuated, first, by a consideration of the importance of a speedy settlement of the question; and secondly, by the anxiety which I still feel in regard to the actual condition of things at Greytown; for although the measures which have lately been taken for assuring the tranquillity of that place seem to have been to a certain extent successful, that anxiety has not been altogether allayed. A letter which I have lately received from Admiral Sir George Seymour, of which I have the honour to inclose a copy, shows that he partakes in this feeling. An act of imprudence on the part of any of the United States' naval officers on that station, or, what is more likely, an act of violence by any portion of the mixed and restless population now sojourning in that town, might still involve us in very serious consequences.

The terms of the proposed arrangement are, however, such as I trust will in general meet the approval of Her Majesty's Government. They do not, in any essential point at least, differ from those which Sir Henry Bulwer proposed in July last. The principles by which I have been guided are at all events the same, although I have encountered some difficulty in adapting them to the peculiar circumstances and the conflicting exigencies of the case.

And, first, as regards the position of Her Majesty's Government in the matter, I have insisted on the impossibility of an abandonment by Great Britain of the Mosquito people; and consequently, on the necessity of an adequate territory being allotted to them, in which they should be secure from molestation, as well as upon the payment of some indemnity to them for Greytown and the portion of territory ceded to Nicaragua. But while these points have been maintained, care has been taken to divest the Articles relating to them of any expression of a harsh or unfriendly nature to the Nicaraguan Government, or to which, under the circumstances of the case, it can reasonably take exception; while the conditions themselves have been rendered as little onerous as it was possible to make them, consistently with the principle from which Her Majesty's Government cannot without manifest inconsistency depart. The territory reserved for the Mosquitos has been reduced very considerably in extent to the westward from what had been hitherto claimed by them, and the indemnity for the cession of Greytown has been rendered contingent for its amount upon the future prosperity of that port, and in all probability as light as it could be without being altogether illusory. The manner of fixing this indemnity has indeed been one of the principal difficulties of the arrangement. The payment of a specified sum at once paid down was at first proposed, and would, no doubt, if practicable have been the best means of effecting our object; but the total inability of Nicaragua, in her present financial circumstances, to pay down any sum, however moderate, was averred, and I believe with truth, by those best acquainted with the subject; and it was but too probable that Nicaragua would on this ground either have refused to take the engagement to pay such sum, or, having taken the engagement, would have failed to fulfil it, leaving to Her Majesty's Government the embarrassing task of afterwards enforcing it.

Secondly, with regard to that part of the arrangement which respects the points at which Nicaragua and Costa Rica are at issue. It has been a matter of some difficulty to strike a fair balance between the pretensions of parties, each of which professes that great sacrifices are demanded in favour of the other. Another difficulty has been to conciliate the interests of these parties with those of the Atlantic and Pacific Canal Company; and this is a point very essential to the success of the arrangement; for this Company unquestionably possesses the means of throwing impediments in the way of its conclusion, both in Central America, where its influence might be exerted to dissuade Nicaragua from entering into any arrangement which it judged to be unfavourable to its (the Company's) interests, and at Washington, where it would, if dissatisfied, exert itself to prevent the confirmation by the Senate of the United States of any Treaty which we might conclude upon the subject.

This difficulty has been felt in regard to certain sections of land, eight in number, granted by Nicaragua in the charter to the Company, to be taken at pleasure on one or both banks of the River San Juan. The proposed arrange-

ment admitting the claims of Costa Rica to the right, or south, bank of that river; the Costa Rican Minister objects to the grant as far as that bank is concerned. The Company, however, insists strongly on a confirmation of their right to locate half the number, at least, of the sections on the right bank of the river; and they are supported by the United States' Government in this demand. My conviction that the whole influence of the Canal Company would be exerted to defeat the arrangement, had they been deprived of these sections, to which they attach great importance, has been my motive for recommending that this point should be ceded by Costa Rica.

M. Molina, the Costa Rican Minister, however, prefers that the point, the only one in regard to which he does not concur in the terms of the proposed basis, should be proposed to his Government by Great Britain and the United States.

It is to be hoped, however, that neither the Government of Costa Rica nor that of Nicaragua will, from any consideration of comparatively minor importance, defer the conclusion of a negotiation by which they will, in point of fact, acquire the joint guarantee of Great Britain and the United States for their sovereignty within their present limits—a very paramount consideration at a time when their territories are likely to be frequented by numbers of reckless and adventurous people from this and other countries who would be but too likely to take advantage of their weakness and disunion for purposes fatal to their continued independence.

Inclosure 1 in No. 121.

Proposed Basis of an Arrangement for settling Central American Affairs.

THE Undersigned, Daniel Webster, Secretary of State of the United States, and John Fiennes Crampton, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty, having taken into consideration the state of the relations between the Republics of Costa Rica and Nicaragua in respect to the boundaries between those Republics, and between the Republic of Nicaragua and the territory claimed by the Mosquito Indians; and being mutually desirous that all pending differences respecting those questions should be amicably, honourably, and definitively adjusted, do, in behalf of their respective Governments, earnestly recommend to the respective Governments of the Republics of Nicaragua and Costa Rica an accommodation and settlement of these differences upon the following basis:—

ART. I. The Mosquito Indians may reserve to themselves, out of the territory heretofore claimed or occupied by them on the eastern coast of Central America, a district of country, and the jurisdiction over the same, to be bounded as follows, namely: beginning on the shore of the Caribbean Sea at the mouth of the River Rama, which is (according to Bailey's map of Central America, published in London in November 1850) in $11^{\circ} 34'$ north latitude, and $83^{\circ} 46'$ west longitude; running thence due west to the meridian of $84^{\circ} 30'$ west longitude from Greenwich; thence due north on said meridian to the River Segovia, Fantasma, or Wanx; thence down said river to the Caribbean Sea; thence southerly along the shore of said sea to the place of beginning; and all the rest and remainder of the territory and lands lying southerly or westerly of said reservation heretofore occupied or claimed by the said Mosquitos, including Greytown, they shall relinquish and cede to the Republic of Nicaragua, together with all jurisdiction over the same, in consideration of the nett receipts for a period of three years from all duties levied and collected at Greytown at the rate of 10 per cent. *ad valorem* on all goods imported into the State. The period of three years to commence on the day when Nicaragua shall formerly take possession of and enter into the occupancy of said town. And the said nett receipts shall be payable quarterly, or every three months, to such agent or agents as may be appointed to receive them.

And the said Republic of Nicaragua hereby agrees not in any way to molest or interfere with the Mosquito Indians within the territory herein reserved by them.

It is also understood that any grants of land which may have been made by the said Mosquitos since the 1st of January, 1848, in that part of the Mosquito

territory hereby ceded to Nicaragua, shall not be disturbed, provided the said grants shall not interfere with other legal grants made previously to that date by Spain, by the Central American Confederation, or by Nicaragua, or with the privileges or operations of the Atlantic Ship-Canal Company, or Accessory Transit Company, and shall not include territory desired by the Nicaraguan Government for forts, arsenals, or other public buildings.

II. It is also understood that nothing in the preceding Article shall preclude the conclusion of such voluntary compact and arrangements between the State of Nicaragua and the Mosquito Indians, by which the latter may be definitively incorporated and united with the State of Nicaragua, it being stipulated that in such case the said Mosquito Indians shall enjoy the same rights and be liable to the same duties as the other citizens of the said State of Nicaragua. The municipal and public authority in the town of Greytown shall be held and exercised by the Government of Nicaragua; but said Government shall levy no duties of tonnage nor any duties of import on goods imported into Greytown, intended for transit across the isthmus, or for consumption in any other State than that of Nicaragua, except such tonnage-duty as may be necessary for the preservation of the port and harbour, and the erection and maintenance of necessary light-houses and beacons; and no duty for this or similar purposes shall exceed, say 12 cents per ton on each vessel.

III. The boundary between the Republics of Nicaragua and Costa Rica shall begin on the south bank of the Colorado at its confluence with the sea at high-water mark on said river; thence along said south bank, also at high-water mark, to the confluence of the Colorado with the River San Juan; thence, at high-water mark, along the south bank of the San Juan to its source on Lake Nicaragua; thence, at high-water mark, along the south and west shore of that lake to the point nearest the mouth of the River La Flor; thence, by a direct line drawn from that point to the mouth of the said river in the Pacific Ocean. It is understood, however, that Costa Rica retains the right, in common with Nicaragua, to navigate said rivers and lake by said vessels, barges, or vessels, towed, but not by steam; but this right is by no means to interfere with the paramount right in Nicaragua, or her granters, to appropriate the waters of said rivers and lake for a Ship-Canal from ocean to ocean, or from the Caribbean Sea to said lake. It is also understood that the said Company entitled the "American Atlantic and Pacific Ship-Canal Company" shall have the privilege of locating on the south bank of the St. John River four of the eight stations or sections of land referred to in the XXVIIIth Article of the Amended Charter of said Company, as rectified by the Government of Nicaragua on the 11th of April, 1850. If, however, the said Company should desire to locate more than the said four sections on the south side of the San Juan, the Governments of Nicaragua and Costa Rica will amicably agree in regard to the terms of such location.

IV. Neither the Government of Nicaragua nor the Government of Costa Rica should be at liberty to erect, or suffer to be erected, any wharf, wall, embankment, or other structure, or to do, or suffer to be done, any thing or act whatever, in the harbour of Greytown, in any part of the Colorado or San Juan rivers, or on the shore of Lake Nicaragua, which shall obstruct the free operations of the Ship-Canal or Transit Company, or hinder the passage of their boats in, along, and through, the said harbour of Greytown and Rivers Colorado or San Juan. And if, after the proper survey of a route for a Ship-Canal between the two oceans, it shall be found that it would be preferable for that Canal to pass in part along the southern bank of the River San Juan or the Colorado river, the Government of Costa Rica engages to grant any lands, and to afford any facilities which may be necessary for the construction of the said Canal.

V. Whereas it is stipulated, by Article II of the Convention between Great Britain and the United States of America, concluded at Washington on the 19th day of April, 1850, that vessels of the United States or Great Britain traversing the said Canal shall, in case of war between the Contracting Parties, be exempt from blockade, detention, or capture, by either of the belligerents, and that that provision should extend to such a distance from the two ends of the said Canal as might thereafter be found expedient to establish; now, for the purpose of establishing such distance, within which the vessels of either of said nations shall be exempt from blockade, detention, or capture by either of the

belligerents, it is hereby declared that it shall extend to all waters within the distance of twenty-five nautical miles from the termination of said Canal on the Pacific and on the Atlantic coasts.

VI. Whereas by Article VII of the said Convention it was, among other things, stipulated, that if any persons or company had already made with any State through which the proposed Ship-Canal might pass, a contract for the construction of such a Canal as that specified in said Convention, to the stipulations of which neither of the Contracting Parties in that Convention had any just cause to object; and the said persons or company had moreover made preparations, and expended time, money, and trouble, on the faith of such contract, it was thereby agreed that such persons or company should have a priority of claim over every other person, persons, or company, to the protections of the Governments of the United States and Great Britain, and should be allowed a-year from the date of the exchange of ratifications of that Convention for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood, that if at the expiration of the aforesaid period, such persons or company should not be able to commence and carry out the proposed enterprise, then the Governments of the United States and Great Britain should be free to afford their protection to any other persons or company that should be prepared to commence and proceed with the construction of the Canal in question. And whereas, at the time of the signature of the said Convention, a company styled the "American Atlantic and Pacific Ship-Canal Company," had with the Government of the Republic of Nicaragua a contract for constructing a Ship-Canal between the said oceans; but, for reasons deemed sufficient by the Governments of Great Britain and the United States, have not hitherto been able to comply with the stipulation which gave them a claim to the protection of the said Governments; and whereas no other company has claimed such protection on the same conditions, it is therefore agreed that the further time of one year from the exchange of the ratifications of this Convention shall be allowed to the said company, to comply with the stipulation aforesaid.

VII. And whereas by another Charter (of April 11, 1850) to the American Atlantic and Pacific Ship-Canal Company, the State of Nicaragua, with a view to facilitate the construction of the Canal, has authorized the said Company to separate from their said contract of September 22, 1849, the part relating to the navigation of the waters of Nicaragua by steam, under the title of the "Accessory Transit Company; and whereas the said Accessory Transit Company has been for some time past in full and successful operation, the Governments of Great Britain and the United States hereby engage to extend their protection to the said Accessory Transit Company, in the same manner and to the same extent as by the aforesaid Convention of April 19, 1850, and by this Convention, the said protection is extended to the Atlantic and Pacific Ship-Canal Company; but as the main object of the said Convention between Great Britain and the United States of America was to provide for an Interoceanic Ship-Canal between the Atlantic and Pacific, and as that object is still deemed paramount to every other mode of transit, the protection hereby extended to the Accessory Transit Company shall not be construed to interfere with the right to construct said canal by the Company which has undertaken to construct the same, or, in case of their failure, by any other person or company which may be authorized to construct the same; and every grant and privilege conferred upon said Accessory Transit Company shall be subject to the paramount right and privilege of any other persons or company to construct, maintain, and use such Canal.

Finally, these propositions, so far as they respect the Governments of Nicaragua and Costa Rica, are advisory and recommendatory; and the immediate consideration of those Governments to their consideration is earnestly invoked.

To insure a prompt decision, Mr. Wyke, Consul-General of Her Britannic Majesty, clothed with full powers for that purpose, Mr. Kerr, Chargé d'Affaires of the United States to Nicaragua, and Mr. Walsh, appointed Special Agent of the United States to the Government of Costa Rica, are authorized to communicate the arrangement proposed to those Governments respectively; and, unless the aforesaid Governments of Nicaragua and Costa Rica shall promptly, and without loss of time, concur in the general basis of this arrangement, and adopt proper measures for carrying it into effect, then the Governments of Great

Britain and the United States will immediately, as between themselves, jointly adopt such measures as they shall deem advisable to carry into full execution the Convention between those Governments of April 19, 1850; and to accomplish the design therein contemplated, of an interoceanic communication by canal from the Atlantic to the Pacific Oceans by the way of the River San Juan and the Lake Nicaragua.

Washington, April 30, 1852.

(Signed)

JOHN F. CRAMPTON.
DANL. WEBSTER.

Inclosure 2 in No. 121.

Vice-Admiral Sir G. Seymour to Mr. Crampton.

(Extract.)

Bermuda, April 8, 1852.

SINCE I sent you Captain Cochrane's official report of the 1st of March on Greytown, I have received a copy of a letter from him to Captain McQuhae, which I send to you, as it is better that you should be apprised that the language held by the commander of the "Decatur" is not always consistent with that of his commanding officer; and if any attempt is made to substitute the Nicaraguan or any other flag for that of Mosquito by any party, there is, in my view, an uncertainty about Captain Green's conduct which may produce very grave results, when our ships are under clear orders to protect Greytown from any such aggressions.

This enhances the object of having the matter settled in a manner which will remove such difficulties.

I send this by a Bermuda trader through Mr. Barclay.

P.S.—I have a note from Captain Cochrane of the 7th instant, when no further step had taken place.

Inclosure 3 in No. 121.

Captain Cochrane to Commodore Mc Quhae.

(Extract.)

Greytown, March 2, 1852.

THE British Consul is at Blewfields. Of the Town Council some of the members wish to withdraw, and most plead excess of business as an excuse for not attending. The police, consisting of some half-a-dozen, are unpaid since last December, and everything is in a most unsettled and unsatisfactory state. A large meeting was held on Saturday night last by a large number of persons, almost all Americans, when resolutions were passed to send delegates to Nicaragua to petition for a corporation from that State for the port of Greytown. These persons, so says public report, stated that if the Nicaraguan Government refused their demands, they would on their return hoist the Nicaraguan flag. Further, that they had been told on the quarter-deck of an American man-of-war, that if the Nicaraguan flag were hoisted, that the American man-of-war would salute it, and prevent the interference of English force.

A paper was given me by Mr. Foote, giving me the names of those delegates that had been elected to proceed, among which was the name of Captain Green, of the United States' ship "Decatur." That Captain Green could have sanctioned such a proceeding I did not believe; but not considering it proper that these incendiaries should have, or be allowed to be supposed to have, the authority and sanction of the American man-of-war present, I deemed it my duty to proceed on board the "Decatur," and there mentioned to Captain Green in a non-official manner the reports in circulation; that I could not consider such reports as true, but pointed out the advantage it would be to himself, and of what benefit to the tranquillity of the place, should these statements and wild schemes be denied and discountenanced by him.

His answers were satisfactory. He stated that he had been about to proceed up the Lake to inquire into the murder of an American at San Juan

del Sur ; but in consequence of the reports circulating on shore, he should not go, lest it might be thought that he in any way wished to support any deputation about to proceed up the river for the before-mentioned purpose. He expressed surprise at his name being among the delegates, and moreover stated that he would prevent any outrage on the part of his countrymen.

The report of his having been elected a delegate I find is untrue. I believe it will be found that he had made use of expressions on shore, which possibly he had not sufficiently weighed ; and more than once he had stated to me, that should the Nicaraguans hoist their flag he would salute it. To which I have always added, "I presume you mean, that should the Treaty now pending between Great Britain and the United States terminate in permitting the Nicaraguan flag to be hoisted, you would salute it." He said, "Yes."

My visit to him has produced these good effects, that he has stated that any American found interfering with the flag on shore, he would send him to New York ; that a meeting which was to have been held to-night to ascertain what delegates accepted of their commissions, has not been held ; and that in consequence of Commander Green's assertion about protecting the flag from outrage by his countrymen, it is possible peace will be maintained until the conclusion of the Treaty.

Captain Green told me that as he foresaw trouble, and considered the Commodore would have more influence with his countrymen, he meant to write to Havana to beg him to come here.

I sincerely hope the Treaty will soon be settled.

No. 122.

Mr. Crampton to the Earl of Malmesbury.—(Received May 31.)

My Lord,

Washington, May 17, 1852.

WITH reference to my despatch of the 3rd instant, inclosing the copy of the basis for an arrangement of the Mosquito question, agreed upon by Mr. Webster and myself, I have now the honour to inform your Lordship that Mr. Walsh, the special Agent appointed by the American Government to convey the proposals therein contained to the Government of Costa Rica, and Mr. Wyke, Her Majesty's Consul-General in Central America, whom I have directed on the part of Her Majesty's Government to make them known to the Governments of Costa Rica and Nicaragua, left Washington for that purpose on the 7th instant.

They proceeded in the first instance to New York, where they embarked for the Havana on the 10th instant. At the Havana they will be taken on board the United States' steam-frigate "Saranac," commanded by Commodore Parker, and thence conveyed to Greytown.

I have the honour to inclose herewith the copy of a letter which I have addressed to Mr. Wyke, communicating to him a copy of the proposed basis of arrangement, and containing such suggestions for his guidance in presenting it to the consideration of the Governments interested, as I thought most likely to ensure their adhesion to its terms.

In regard to the Article respecting the indemnity to be paid by Nicaragua to the Mosquitos, your Lordship will perceive that I have left to Mr. Wyke some latitude, both as to the amount thereof, and as to the manner in which the payment of it shall be effected. I have even thought it right to authorize Mr. Wyke, should the difficulty of determining these points appear likely to oppose a serious obstacle to the conclusion of the arrangement, to reserve them for future decision ; it being understood, however, that the principle that an indemnity is to be paid to the Mosquitos by Nicaragua is to be considered as *sine quâ non*.

The uncertainty of any data which I have been able to procure in regard to what would be at once fair and practicable respecting this matter has been my reason for allowing this latitude. It will perhaps be easier to form some judgment as to the points in question from information procured upon the spot ;

and there does not appear to be any reason why the question might not be satisfactorily adjusted between Nicaragua and Her Majesty's Government after the general principle of the arrangement had been concurred in.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure in No. 122.

Mr. Crampton to Consul-General Wyke.

Sir,

Washington, May 7, 1852.

I INCLOSE a copy of Articles which have been agreed upon by Mr. Webster and myself as proper for the basis of an arrangement of the position of Greytown, and of the questions of boundary, in regard to which the Republics of Costa Rica and Nicaragua are at issue.

A special agent has been named by the Government of the United States to convey these propositions to the Government of Costa Rica, and instructions have been addressed to the United States' Chargé d'Affaires to Nicaragua to make them known to the Government of that Republic.

As it is on many accounts very desirable that the contemplated arrangement should be adopted with the least possible delay, and as the concurrent action of an agent of Her Majesty's Government with that of the agents of the Government of the United States in Central America is considered to be calculated very materially to contribute to that end, it has been thought advisable that you should accompany Mr. Walsh, and that you should, simultaneously with him and Mr. Kerr, press upon the Governments of Costa Rica and Nicaragua the expediency, in their own interest, of adhering to the terms proposed, as being, on the whole, as fair towards both parties as, under all the circumstances and under all the conflicting exigencies of the case, it was practicable to agree upon.

The arrangement may be considered as consisting of two branches: 1st, that which regards the position of Greytown, the terms of which are to be settled between Nicaragua and Her Majesty's Government on the part of the Mosquitos; 2ndly, that which regards the differences between Nicaragua and Costa Rica.

And, first, with respect to Greytown; the principal difficulty which is likely to present itself will probably regard the payment of an indemnity by Nicaragua to the Mosquitos for the cession of the port of Greytown and the adjoining territory.

Upon the principle of the payment of an indemnity, and upon the engagement on the part of Nicaragua in no way to molest the Mosquito people in the territory to be reserved for them, Her Majesty's Government must insist. The connection of Great Britain with this people is of too ancient a date, and the acts by which Her Majesty's Government have sustained the Mosquito rights have been of too decisive a nature, to render it possible for Her Majesty's Government to recede from the position which they have taken in regard to them. Upon this point, therefore, the Government of Nicaragua must see that a refusal on their part to come to an accommodation could only result in a prolongation of the present unsatisfactory state of things, or else, in the adoption of other measures by the Governments of Great Britain and the United States as between themselves, much less favourable to the interests of Nicaragua than those now proposed.

But it is no part of the policy of Her Majesty's Government to inflict upon Nicaragua unnecessary humiliation, or to insist upon terms of accommodation of a nature too onerous to be complied with without serious injury to her national interests.

Should Nicaragua, therefore, still entertain the opinion of the validity of her abstract right to the territory claimed for the Mosquito nation, and feel consequently unwilling to do any act which might be supposed to involve a renunciation of that right, it may be suggested to her that although Her Majesty's Government must continue to differ with her on this point, the fact of the continued possession of the territory by the Mosquito authorities for the

last five years is one in regard to which there can be no dispute. Now it is obvious that in a case of this sort, and supposing, for the sake of argument, that such possession had been effected and was maintained by an act of conquest, there are but two ways by which such a state of things could be altered, viz., by re-conquest, or by accommodation. The history of the world presents continual instances in which the latter course has been had recourse to by nations unwilling to risk war for the recovery of territory to which they nevertheless held that they had an abstract title. Such considerations as these, quite compatible with the existence of a difference of opinion in this respect between the two Governments, may be suggested to the Nicaraguan Government, and may have their effect in reconciling them to the terms now offered.

With regard to the amount of the indemnity, it is equally far from the intention of Her Majesty's Government to insist upon a sum which it might be found impracticable, or which it would seriously injure the Nicaraguan Government to pay. The desire of Her Majesty's Government is to facilitate in every possible way the great enterprise now contemplated of an Interoceanic Canal; an enterprise the success of which, it is believed, will materially contribute to the prosperity of Nicaragua.

The terms of the indemnity proposed in the basis make the amount contingent on the future prosperity of Greytown, and this, it is hoped, will rapidly increase. Should the Nicaraguan Government, however, prefer the payment of a stated sum at once paid down, this arrangement would be equally, if not more, acceptable to the Mosquito people. As, however, it is very difficult at a distance to determine what amount would, under all the circumstances of the case, constitute a fair indemnity both in regard to the value of the sovereignty ceded and the ability of Nicaragua to pay it, it is a question which, should you find it difficult to determine, or should it offer a serious obstacle to the conclusion of the arrangement, may be left for future determination, or even to the arbitration of a third party, with the certainty that nothing will be insisted upon by Her Majesty's Government which could be considered unreasonable.

The principle that a fair indemnity from Nicaragua to the Mosquitos is to be paid must nevertheless be maintained, and is to be considered as a *sine quâ non*.

Secondly, with regard to the questions as to which Costa Rica and Nicaragua are at issue—questions which are to some extent complicated by being mixed up with the interests of the Ship-Canal Company, it is desired by Her Majesty's Government that the interests of these three parties should be reconciled, as being in reality closely allied. It cannot be denied that the prosperity of the countries adjacent to the Canal would be increased, and it is equally clear that the successful prosecution of that work will greatly depend upon the satisfactory adjustment of the existing differences between Governments having adverse claims in regard to those countries. The continuance of such disputes could have no other effect than that of retarding, if not defeating, the enterprise in question, and perhaps of bringing the parties interested into actual collision. The great advantage, therefore, which would be secured to both the Governments of Costa Rica and Nicaragua by the conclusion of a Treaty to which the United States and Great Britain should be parties, cannot be too strongly pressed upon the attention of the Costa Rican and Nicaraguan Governments.

The manner in which it is proposed that the arrangement of these questions shall be carried into effect with the least possible loss of time is, that the Governments of Costa Rica and Nicaragua shall at once come to an understanding as between themselves upon the basis now recommended to them, and that they shall then forthwith send full powers to their Representatives at Washington to sign a quadripartite Treaty, in which the terms of that basis shall be embraced, and to which Great Britain and the United States shall be parties. This would be immediately submitted for ratification by the Senate of the United States, and returned for the ratification of the respective Legislatures of Costa Rica and Nicaragua.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Mr. Crampton the Earl of Malmesbury.—(Received May 31.)

(Extract.)

Washington, May 17, 1852.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 23rd ultimo,* informing me that Her Majesty's Government are prepared to give their assent to the arrangement of the Mosquito question, of which I had the honour of forwarding a sketch to your Lordship in my letter of the 28th of March, but calling my attention to two points, in regard to which it appears desirable that alterations should be made in the IVth Article of the draft in question—the one regarding the jurisdiction of the River San Juan; the other, respecting the perpetuity of the renunciation by Costa Rica of the right of navigating that river with steam-vessels.

First, with respect to the jurisdiction of the river, your Lordship will have perceived that, by the IIIrd Article of the basis of arrangement which was inclosed in my despatch of the 3rd instant, while the right of navigating the River San Juan and the Lake of Nicaragua by all vessels except steam-vessels is secured to Costa Rica, the jurisdiction of the river will rest with Nicaragua alone.

The considerations by which Mr. Webster and myself were actuated in proposing this arrangement of the jurisdiction of the river, were as follows :

There have been two ways in which the jurisdiction of rivers has in such cases, been regulated, both in Europe and America. The one, that the jurisdiction should be exercised by each party over half the river, supposing it to be divided by a line running down the centre of the main channel; the other, that the jurisdiction should be exercised by one of the parties, in virtue of an arrangement to that effect, over the whole breadth of the river, without prejudice, however, to the rights of navigation or those of the other party.

The former of these arrangements is evidently that which is the most likely to give rise to disputes between the authorities of States bordering on rivers, as well as that under which the laws and police regulations of each are most easily eluded. The inconvenience of the arrangement, in cases where it exists in regard to river-boundaries between different States of this Union, is frequently felt, and it would be probably still more objectionable in countries situated as Nicaragua and Costa Rica. This consideration made the President of the United States strongly recommend that, in the present case, the jurisdiction should be vested in one of the parties; and as it also appeared desirable that the Ship-Canal enterprise should be carried on as much as possible under one jurisdiction, and that that jurisdiction should derive from the party under which the Company hold their charter, it was judged most expedient that the water jurisdiction of the San Juan should be exercised by Nicaragua.

This arrangement, which is in reality one of convenience, was, without much difficulty, acquiesced in by the Minister from Costa Rica.

Secondly, with regard to your Lordship's observation that it would not be right to call upon Costa Rica to renounce in perpetuity the right of navigating the San Juan with steam-vessels, I immediately suggested to the United States' Government that a clause should be added to the IIIrd Article of the basis, by which the renunciation on the part of Costa Rica should be limited to the period for which the exclusive privilege of navigating the river with steam-vessels has at the present moment been conceded to the Interoceanic Canal Company.

The fairness of this proposal was immediately concurred in, and an addition to the Article in question was accordingly drawn up in the following words :

Addition to the IIIrd Article :

"It is however understood, that nothing in this Article contained shall prevent the Republic of Costa Rica from resuming its right to navigate the said rivers and lake by steam-vessels, when the charters of the Atlantic and Pacific Ship-Canal Company, or Accessory Transit Company, shall either have expired by their own limitation, or shall have been legally forfeited."

Instructions will be immediately sent by the United States' Government to their Agents to insert this clause in the basis, and I have directed Mr. Wyke to do so likewise.

Some information which I have since received in regard to the grants of land which have been made by the Mosquito Government in that part of the territory adjoining Greytown to be ceded to Nicaragua, has induced me to propose a limitation of those grants to such as shall have been accompanied by residence or possession. It appears to me, also, that the clause limiting those grants as regards other grants "previously made by Spain, the Central American Confederation, or Nicaragua" (although I doubt whether any such grants exist), was inconsistent with the position of Her Majesty's Government that neither Spain, Central America, or Nicaragua had ever held the territory in question. I therefore proposed that that clause should be struck out. Both these suggestions were adopted, and instructions have accordingly been sent to the American and British Agents to make the necessary alterations in the following manner:

Alteration in the first Article—

Insert after the word "Nicaragua," in the last clause of the Article, the following words: "which grants shall have been attended with residence on, or possession of, the lands granted;" and strike out, after the words "interfere with," the words "other legal grants made previously to that date by Spain, the Central American Confederation, or by Nicaragua."

The additional instructions in regard to the above two points will, it is calculated, reach Greytown very nearly, if not quite, as soon as Messrs. Wyke and Walsh can arrive there.

I have the honour to inclose a copy of the letter which I have addressed to Mr. Wyke in regard to this matter.

Inclosure in No. 123.

Mr. Crampton to Consul-General Wyke.

Sir,

Washington, May 13, 1852.

WITH reference to my letter of the 7th instant, inclosing the copy of the basis of an arrangement of the questions regarding Greytown and the boundaries of the Republics of Costa Rica and Nicaragua, I have to inform you that, in consequence of an instruction which I have received from Her Majesty's Government since you left Washington, I have proposed to the United States' Government an addition to the IIIrd Article of the arrangement, stipulating that the renunciation made by Costa Rica in that Article of the navigation of the River San Juan by steam-vessels is not to be a renunciation in perpetuity, but will be limited to the period for which the exclusive privilege of navigating that river with steam-vessels has at the present time been conceded to the Inter-oceanic Canal Company. The fairness of this stipulation has been concurred in by the Government of the United States, and it has been accordingly agreed to insert in the basis of arrangement, as an addition to the IIIrd Article thereof, the following words;

"It is however understood that nothing in this Article contained shall prevent the Republic of Costa Rica from resuming its rights to navigate the said river and lake by steam-vessels when the charters of the Atlantic and Pacific Ship-Canal Company, or Accessory Transit Company, shall either have expired by their own limitations or shall have been legally forfeited."

It has also been thought advisable to make certain alterations in the wording of that part of the 1st Article of the basis which regards the confirmation by Nicaragua of the grants of land made by the Mosquito Government in that part of their territory which is to be ceded by them to Nicaragua.

The alterations are as follows:

ART. I. Insert after the word "Nicaragua," in the last clause of the Article the following words: "which shall be attended with residence on or possession of the lands granted;" and strike out after the words "interfere with," the words "other legal grants made previously by Spain, the Central American Confederation, or by Nicaragua."

I have consequently to instruct you to make the addition to the IIIrd Article and the alteration in the 1st Article above indicated.

Similar instructions will be addressed by the Government of the United States to Mr. Walsh and to Mr. Kerr.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 124.

Mr. Crampton to the Earl of Malmesbury.—(Received May 31.)

My Lord,

Washington, May 17, 1852.

I HAVE the honour to inclose the copy of a letter which I have received from Vice-Admiral Sir George Seymour, acknowledging the receipt of my letters to him of the 14th and 19th of March, communicating to him copies of the instructions sent to Commodore Parker by the United States' Government.

Sir George Seymour informs me that he has instructed Commodore McQuhae to act according to my suggestions until he receives further orders from the Lords Commissioners of the Admiralty.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 124.

Vice-Admiral Sir G. Seymour to Mr. Crampton.

Sir,

"Cumberland," at Bermuda, April 24, 1852.

I HAVE had the honour of receiving your letters of the 14th and 19th of March, inclosing copies of directions which had been addressed to Commodore Parker and the Honourable A. Graham, Secretary of the Navy of the United States, to cause the commanders of ships of the United States' navy at Greytown to cooperate with the senior officer of Her Majesty's ships in supporting all reasonable regulations of the municipality of that port, and to acquaint natives of the United States that they will not be countenanced by that Government in any attempt to subvert the acting authorities.

In consequence of the breaking down of the "Merlin" steam-packet, these despatches did not leave New York until the 20th instant, and only arrived here yesterday; but I hope the delay is of less consequence as you have taken the precaution of forwarding the same information to the senior naval officer of Her Majesty's ships at Greytown.

I have to-day sent directions to Commodore McQuhae to found any orders he may transmit to the commanders of Her Majesty's ships at Greytown in consonance with your suggestions, until he receives further orders from the Lords Commissioners of the Admiralty or myself on the subject; but until then also to consider that the orders to protect Greytown from foreign aggression are still in force.

I have, &c.
(Signed) G. F. SEYMOUR.

No. 125.

The Earl of Malmesbury to Mr. Crampton.

Sir,

Foreign Office, June 18, 1852.

I HAVE received and laid before the Queen your despatch of the 3rd of May, inclosing a copy of the conditional agreement concluded between you and Mr. Webster on the 30th of April, as the proposed basis of a permanent arrangement for settling the various pending questions relative to Central

America, and especially to the future disposal of Greytown, and to the boundaries between Mosquito, Nicaragua, and Costa Rica respectively.

By your subsequent despatch of the 17th May,* you inform me that Messrs. Wyke and Walsh, as Commissioners respectively charged on the part of Great Britain and the United States to submit that Project of Agreement to the Governments of Nicaragua and Costa Rica for their acceptance, had already departed, under instructions from you and Mr. Webster, for Central America.

Under these circumstances it may, I fear, be too late to propose the introduction of any material modifications into the Project of Agreement. Nevertheless, there are some points in that project in which Her Majesty's Government would deem it of great importance that, if yet practicable, some alterations should be effected.

If I were not conscious of the great difficulties which you must have encountered in inducing the United States' Government to enter into any agreement at all by which they should admit the independence of the Mosquitos, whose very existence as a nation the United States, as well as the Central American States, have hitherto constantly denied, I should be unable to conceal the regret which I feel that so wide a departure had been admitted from the original Project of Agreement which was transmitted by you to this office, and which has met with the approbation of Her Majesty's Government. But I conclude that you found it impossible to obtain the sanction of the United States' Government to that project as it stood; and that, in order to close once for all, while yet practicable, a difficult and hazardous question, you preferred to admit less favourable terms rather than to leave that question still open. If such was the case, Her Majesty's Government could not refuse their assent to the correctness of your decision.

The agreement, however which Messrs. Wyke and Walsh are commissioned to submit for acceptance to the Governments of Nicaragua and Costa Rica, may not improbably not be accepted by Nicaragua. It may therefore be still susceptible of amendment; and it would be very essential that, if possible, such modifications should be introduced into it as may correct its imperfections, and render its provisions less liable to become a source of future dissension between the several parties to it. I have therefore to instruct you to exert yourself, if there be yet time, to persuade Mr. Webster to admit in it such alterations as I will now proceed to point out.

In the first place it will be necessary to define and describe more clearly the future boundaries of the Mosquito country, so as to admit of no possible mistake.

In different maps which exist of Central America the same rivers are differently designated, and especially the Segovia river, which forms so essential a feature in the line of boundary for Mosquito, as laid down in Article I of the Project of Agreement. In Bailey's map, which is specifically cited in that Article as an authority for the longitude and latitude in one given point, the River Segovia is termed Escondido or Segovia, while the River Wanx is laid down as a totally different river far to the northward. But in Wyld's map and other maps of Central America the Segovia river is laid down as it is designated, and evidently intended, in Article I of the project of Agreement, namely, as the Segovia or Wanx, and has its mouth in the Caribbean Sea at Cape Gracias á Dios. The words "At Cape Gracias á Dios." should therefore be inserted in the Article after the words "Caribbean Sea," and thus all possible mistake will be avoided.

In the next place the term "All the rest and remainder, &c.," in the same Article should be modified and tempered by the addition, after the words "including Greytown," of the words "and to the northward of the River San Juan." Otherwise Nicaragua would have the power of claiming an extent of territory as far south as Boca del Toro; for the whole of the district from the San Juan river to the Boca del Toro has been, at one time or another, either possessed or claimed by the Mosquitos. No misapprehension should be allowed to exist on this point; otherwise dissensions will be liable to arise hereafter between the States of Nicaragua and Costa Rica.

Again, if it be intended by the indefinite expressions "southerly" and "westerly," used in the same Article of the project of Agreement to include, in the cession of lands by Mosquito to Nicaragua, all the territory to the north-westward

of the River Segovia or Wanx, I must observe that the State of Honduras has constantly laid claim to a considerable portion of that territory. Consequently if, by the Agreement now under discussion, Great Britain and the United States made themselves parties to the formal cession to Nicaragua of the whole of that district, they would virtually interfere with the assumed rights of Honduras. Now, the parties to the Agreement may undoubtedly settle between themselves any point in which their own rights or claims respectively are alone concerned. But they have no right to take upon themselves to determine points in which the rights or claims of third parties are affected. And, moreover, if they did so interfere in this case, they might involve themselves in much eventual difficulty in the very probable case of a quarrel arising out of the Agreement between Nicaragua and Honduras.

The great object of Great Britain and the United States in making themselves parties to an agreement for settling the position of the several States of Central America, must assuredly be so to determine all territorial points as to leave no loop-hole for future dissensions between any of the parties to the Agreement. You will, therefore, exert yourself to induce the United States' Government to agree to the introduction of such a modification of Article I in this particular as will correct the defects above pointed out.

There is another point in the same Article of which, as it nearly affects British interests and credit, it will be still more necessary that you should, if possible, procure a modification. I allude to the concluding part of that Article touching grants of land made by the Mosquito Government within the limits of the territory heretofore possessed or claimed by them. Now, the territory to the north-westward of the River Segovia or Wanx includes the localities of the well known Poyais or Black River Grant, made by the Mosquito King, George Frederick, in 1820, to General Mc Gregor, which cession led to the speculation so notorious under the title of "Poyais bonds."

Great numbers of British subjects have long been, and still are, deeply interested in this grant; and Her Majesty's Government could not properly lend themselves to such a summary abandonment of British rights, however questionable the said grants may in some particulars be, as would be involved in an unconditional transfer to Nicaragua or any other State of the district in which the Black river lands are situated.

Her Majesty's Government must, therefore, strenuously press for such a modification, in this particular, of Article I of the project of Agreement as shall reserve to British subjects all the rights to which, after a fair and full investigation, they may be found entitled, by virtue of *bona fide* grants of land made at any time by the Mosquito Government during the period that the Mosquitos held, or claimed, possession of the territory in question. With the exception of this point, which directly affects British subjects and interests, the modifications above proposed in Article I of the project of Agreement have no immediate reference to Great Britain; but have for their sole objects, first, to secure the future welfare of the Mosquitos, whom Great Britain has so long protected, and cannot now with honour or decency abandon; and secondly, to insure the future peace of Central America.

There is, however, yet another provision in Article I of the project of Agreement, of which, as it now stands, I do not comprehend the exact scope and compass, and on which, therefore, I should wish for further explanation; I allude to the provision for determining the mode and scale of compensation assigned to the Mosquitos in return for their relinquishment of Greytown to Nicaragua.

That compensation is allotted on the duties to be levied in Greytown on goods which may be imported into Nicaragua, by the port of Greytown, for three years from the date of its actual cession to Nicaragua, and the scale of compensation is fixed at 10 per cent. *ad valorem* of the total amount of the goods so imported.

Greytown is, however, at this moment virtually a free port; and it has, moreover, been agreed by Great Britain and the United States in the Convention of Washington of April 19, 1850, Article IV, that the ports at each end of the projected Ship-Canal shall be free; Greytown being the port at the eastern end of the Canal.

I do not, therefore, apprehend that there can have been any intention on the part of Mr. Webster or yourself, of sanctioning any interference with the

freedom of the port of Greytown ; and I rather understand the Article, as it stands, to mean that no duties are to be levied on goods entering the port of Greytown ; but that on all goods imported into that town, and leaving it for the State of Nicaragua, a duty of 10 per cent. *ad valorem* is to be levied for a period of three years from the date of the cession of the port and place to Nicaragua ; that amount to be paid directly to the agent of the Mosquitos.

If my understanding of the intent of the Article be correct, in that case either the wording should be so altered as to express that intent more clearly, or a declaration should, on your finally signing the Convention to be formed on the basis of the Agreement, be delivered in by you stating in distinct and unmistakeable terms the sense in which Her Majesty's Government understand and assent to the provision relative to the compensation to be made to Mosquito in return for the cession of Greytown to Nicaragua.

It is unnecessary for me to observe, that that compensation must be real and not merely nominal. The credit of Great Britain would not bear any doubt upon this point.

Her Majesty's Government are unwilling to anticipate that you will meet with any serious difficulty in procuring the admission of the above-mentioned alteration into the draft of Agreement. Great Britain and the United States, in combining their exertions for the permanent settlement of the intricate and difficult questions which directly affect Central America, and indirectly their own mutual relations, can be animated by but one feeling, namely, the desire to extend the general commerce of the world, for the benefit as well of their own countries as of that vast and fertile region of America which is still practically almost shut out from the world, but which will shortly be opened by means of that grand line of interoceanic communication which is about to be formed by the enterprise of individuals of the United States.

Whatever casual differences of opinion may have heretofore existed between Great Britain and the United States with reference to Central America, may be considered as entirely removed by the Convention of Washington of April 1850, which has virtually identified the interests of both countries. Their Governments and people may henceforward be actuated by a generous rivalry in helping forward in the path of civilization the yet unadvanced nations of Central America, but no national jealousy can any longer interfere to mar the course or the fruits of their united exertions.

Her Majesty's Government are persuaded that the United States' Government will concur in this wide and disinterested view of the duties and interests of both countries, and of the manner in which the questions yet at issue ought therefore to be treated between the two Governments ; under this conviction Her Majesty's Government entertain little doubt that, aided by the hearty concurrence of Mr. Webster, you will be enabled to bring to a successful and satisfactory conclusion the remaining portions of this question, which they place with confidence in your hands.

You will read this despatch to Mr. Webster, and leave a copy of it with him.

I am, &c.
(Signed) MALMESBURY.

No. 126.

Consul-General Wyke to the Earl of Malmesbury.—(Received July 11.)

My Lord,

Greytown, May 28, 1852.

MR. WALSH and myself arrived here in the United States' frigate "Saranac" on the 25th instant, and we shall proceed to San José as soon as our preparations are completed for this long and difficult journey, which, I fear, will cause some little delay, as the water in the river is now too low to admit of steamers going up ; we shall therefore proceed to the Serapiqui in an open boat, and having reached a place on that river called the Embarcadas, we hope there to find mules to carry us over the mountains to San Jose.

The state of affairs in Greytown is anything but satisfactory, although for the moment the authorities manage to keep order.

Your Lordship is probably aware that the population of this town is prin-

cipally composed of adventurers from all countries, constantly recruited by Californians, either on their way to, or return from, San Francisco. The majority of these men are Americans, who, with a profound contempt for the different Republics of Central America, have, in pitching their tents here, determined to remain perfectly independent *de facto* of any authority except that constituted by themselves. With this object in view, they have elected a Mayor and Corporation, who govern the town, and who have marked out a certain amount of territory, comprising about twenty square miles, over which they claim jurisdiction on the plan of Hamburgh, Bremen, and other free cities. Things once settled on this basis, they had no objection to acknowledge the nominal supremacy of the King of the Mosquitos, and accordingly his flag is flying over the town, and is treated with decent respect. They one and all declare that they will not suffer themselves to be placed under the authority of the Nicaraguan Government, and will resist any attempt to establish it here with arms in their hands.

From the character and habits of these men, who are all armed with revolvers and other weapons, and inured to hardship and fatigue, I have no doubt that they would be able to drive back any Nicaraguan troops that might be sent against them. The greatest hatred and contempt is openly expressed against Nicaragua and its authority, but they would have no objection to be placed under the nominal jurisdiction of either Costa Rica or Mosquito. What they in reality want, however, is to remain a free town, under the joint protection of Great Britain and the United States.

Mr. Green is now at Blewfields, but Mr. Foote, the English Vice-Consul at this port, confirms what I have heard expressed, and is of opinion that any attempt to place them under the authority of the Nicaraguan Government certainly would be resisted here.

It is much to be regretted that neither Mr. Crampton nor Mr. Webster were at all aware of the state of feeling existing amongst the Anglo-American population of this place when they drew up the Articles of the Treaty which we are now sent to propose to the Governments of Costa Rica and Nicaragua; for should the American inhabitants here positively assert their independence, and resist being placed under Nicaraguan authority, the feeling in the United States would be so strong in their favour, that I very much doubt whether the United States' Government would be able to adhere to the proposed arrangement of ceding this port to Nicaragua.

I have written to Mr. Crampton by the "Saranac," which vessel left this place yesterday, to inform him of the real state of affairs here, which renders only more difficult this already-complicated question. Mr. Walsh is now writing to Mr. Webster on the same subject.

The inhabitants, on hearing of our arrival, were going to summon what they call a mass-meeting, to petition Mr. Walsh and myself not to take any steps tending towards placing this town under Nicaraguan authority; but we of course intimated to them that we could listen to no suggestions of the sort, as we were merely passing through this place on our way to San José.

We hope to leave in a day or two.

I have, &c.

(Signed)

CHARLES LENNOX WYKE.

No. 127.

Consul Green to the Earl of Malmesbury.—(Received July 11.)

My Lord,

Greytown, June 3, 1852.

I HAVE the honour to inclose the copy of a letter which I have dispatched to Mr. Crampton, Her Majesty's Minister and Plenipotentiary at Washington; also copies of the new Constitution as adopted by the people of Greytown, and the opening address of the Mayor Elect.

I deemed it necessary, under existing circumstances, to withdraw myself from any direct interference with the management of municipal affairs, and accordingly, on the 29th of March last (the annual election being near at hand) I granted (in my capacity as agent for the King of Mosquito) the privilege of electing their own city officers to the inhabitants; the office of Chairman of

the City Council having until then been a part of the duty of Her Majesty's Consul and Agent for the King of Mosquito.

I considered it advisable, my Lord, to adopt this measure, in consequence of the opposition shown by the American portion of the inhabitants to British influence, and also from the many difficulties constantly occurring, which, as a matter of course, were attributed not to Mosquito but to British interference.

I have, &c.

(Signed) JAMES GREEN.

Inclosure 1 in No. 127.

Consul Green to Mr. Crampton.

(Extract.)

Greytown, May 31, 1852.

MR. WYKE left this place for San José, Costa Rica, yesterday afternoon.

Mr. Wyke, previous to his departure, expressed a wish that I should acquaint you with a few particulars which might be of much service in the settlement of the Mosquito question, particularly referring to the wishes and feeling of the people of this place in respect to the transfer of the sovereignty of this part of the country to Nicaragua.

You are probably aware that, in the beginning of April, I called a meeting of the inhabitants, and informed them that the rapid increase in the population would warrant a revision of the Constitution last year granted to them by the Mosquito Government, and that, consequently, the Government being inclined still further to comply with their wishes, means should be taken by the inhabitants to elect all their own officers, and adopt such rules and regulations for their protection as would be deemed necessary for the public safety.

This action on the part of the Mosquito Government was well received by the people. A Committee was appointed to revise the old Constitution, and, after several meetings had taken place, it was revised, and the Common Law of England adopted, together with the admission of the decisions of Supreme Courts of the United States in all trials. ♥

The election took place on the 15th of April last; when a Mayor, three Judges of the Supreme Court, five Aldermen, a Health-officer, Captain of the Port, City Attorney, and City Marshal, were appointed; and on the 30th of the same month the several officers were sworn in.

Since then everything has gone on very well; a very efficient police has been organized, taxes levied, and various salutary measures passed.

Within the last week an opportunity presented itself of testing their efficiency. The bedroom of a returning Californian had been entered forcibly, and a large amount of gold-dust plundered by a gang of desperadoes who had lately arrived from Chagres. Although the thieves had displayed consummate skill in their arrangements, the police soon discovered and arrested the parties. In the meantime, the Californians attempted to gain possession of the prisoners, for the purpose of lynching them. The citizens, however, armed themselves, turned out, and formed a guard round the station-house, determined that the law should be carried into effect, and a fair trial given them. A jury of twelve of the most respectable citizens of the place was then summoned, and, in fact, every form of law complied with.

After a fair and remarkably well-conducted trial, three persons were sentenced to be hung. After conviction, however, two of the number confessed, and gave information which tended to the recovery of a small portion of the plunder; the other prisoner was executed this morning.

The two who confessed were relieved, their punishment being commuted to branding and punishment.

Before his execution, the culprit confessed his participation in many robberies and murders.

The firmness of the City Government has astonished the passers through. They say; "Greytown is sure to thrive while the laws are firmly administered, and life and property protected."

The inhabitants have declared their intention of resisting any attempt of Nicaragua to occupy this place, and have already informed the Commissioners

that they are unanimous in their dislike to that Government, and also that they are determined to expel any officer of that Government who may attempt to hold office here.

It will be impossible for the Nicaraguans to exercise any authority here while a rapidly-increasing population of English and Americans are determined at all risks to oppose them. Costa Rica is much more in favour, and, I think, might occupy the port without any opposition, provided the same privileges now accorded to the city authorities would be conceded to them by that State.

They have even declared that Mosquito would be preferable to Nicaragua, so bitter has the feeling against that State become throughout the English and American population of Central America.

Inclosure 2 in No. 127.

Constitution of the City of Greytown, or San Juan del Norte, in Central America.

Preamble.

WE the native and adopted citizens of Greytown or San Juan del Norte in Central America, in order to establish a suitable Government, to secure the blessings of liberty, establish justice, assure domestic tranquillity, and promote the general welfare, do adopt the following Constitution for the city of Greytown or San Juan del Norte, and define the boundaries of the same as follows:—

Boundaries.—Commencing at the mouth of Indian river, thence running up through the channel of said river fifteen miles, thence in a direct line, so as to include the head of the Machuca Rapids, thence down the San Juan river to its junction with the Colorado, thence down the channel of the Colorado river to the Carribean Sea.

ARTICLE I. *Declaration of Rights.*

§ 1. All men are by nature possessed of certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring and protecting property, and securing happiness.

§ 2. All political power is inherent in the people. Government is instituted for their protection, security and benefit; and they have the right to alter and reform the same, whenever they may deem it requisite for the public welfare.

§ 3. The right of trial by jury shall be secured to all, but may be waived by the consent of parties in civil cases.

§ 4. The privilege of the writ of *habeas corpus* shall not be suspended, unless in cases of clear manifestation of defeating the ends of justice, nor shall excessive bail or fines be imposed, nor shall cruel or unusual punishment be inflicted, nor bail denied, except in capital offences of the highest and most flagrant character.

§ 5. No person's life or liberty shall be placed twice in jeopardy for the same offence, nor be compelled in any criminal prosecution to be a witness against himself, or be denied any of the facilities of procuring the attendance of witnesses in his behalf, by due process of law, or to interrogate witnesses, when confronted by them, or to be heard by himself or counsel in his defence.

§ 6. Freedom of speech and press is fully guaranteed; but each is held responsible for the abuse of that right.

§ 7. The people have the right to assemble, consult the public good, and instruct the Legislative Department on any subject affecting the public welfare.

§ 8. There shall be no imprisonment for debt, except in cases of fraud, supported by affidavit, or other undeniable evidence.

§ 9. No bill of attainder or *post facto* law, or law impairing the obligations of contracts, shall ever be passed.

§ 10. No warrant shall be issued to search any house or premises, unless there be probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the person or property to be seized.

§ 11. This enumeration of rights shall not be construed to impair or deny the existence of other undelegated rights.

ARTICLE II. *The Executive Department.*

§ 1. The Executive Department shall be vested in a City Mayor, who shall be elected by the qualified citizens of the city, on the 15th day of April of each year, provided it be not a Sunday; if so, on the following day.

§ 2. No person shall be eligible to the office of Mayor (except at the first election under this Constitution), who has not been a resident of the city at least six months next preceding the election, and attained the age of twenty-five years.

§ 3. He shall transact all executive business with the other city officers, civil and military, try all criminal cases brought him, sign, seal, and endorse his name to all official documents requiring the same, examine the condition of all public offices and public property, and make out a written report of all public affairs, and do and perform all other duties which may hereafter be assigned him by law.

§ 4. He shall suspend the execution of sentence of punishment, where the same involved the life or liberty of the accused, when petitioned, until the next session of the Council, to whom he shall report all the particulars of the case, and they shall either pardon, commute, or order execution of sentence as the case may be.

§ 5. In case of the impeachment of the Mayor, or his removal from office, by resignation or otherwise, the duties of his office shall devolve on the President of the City Council, until the Mayor be reinstated in office, return to his duties, or his successor be elected and qualified to act.

§ 6. No person, while holding the office of Mayor, shall hold any other office or title.

ARTICLE III. *Officers and their Duties.*

§ 1. At the same time and place, and in the same manner, in which the Mayor and Common Council is chosen, there shall be elected a City Registrar, City Attorney, City Marshal, City Treasurer, Coroner, Captain of the Port, Health Officer, City Surveyor, and Public Administrator. The office of City Surveyor, Captain of the Port, and Coroner, shall, until otherwise provided for by law, be vested in the Health Officer.

§ 2. The City Registrar shall also be *ex officio* Clerk of the Mayor's Court, Secretary of the Common Council, and Postmaster, until otherwise ordained by law.

§ 3. The City Marshal, by virtue of his office, shall be Captain of Police, and shall also serve in the capacity of Public Administrator, until otherwise ordained by the Common Council.

ARTICLE IV.

§ 1. The judicial power of the city shall be vested in a Supreme Judge and two Associate Judges, in addition to the judicial duties assigned the Mayor of the City.

§ 2. Two of the Supreme Judges shall be sufficient to constitute a Court to try and determine any and all cases which may be brought before them.

§ 3. The Supreme Court shall have power and jurisdiction in all cases of appeal which may arise in the Mayor's Court, and in special cases, as may be designated by the Common Council; but in no case shall their decision apply to matters of fact, but simply to questions of law.

§ 4. The time and place of election, qualification for and term of office, and compensation, shall hereafter be provided by law.

ARTICLE V. *Legislative Department.*

§ 1. The Legislative Department shall be vested in a Common Council, chosen from and by the qualified voters, to serve for the term of twelve months.

§ 2. The Common Council shall consist of five councilmen, one of whom shall be chosen President of the Council, to preside over their deliberations, and decide in all cases of a tie.

§ 3. The members of the Common Council shall within fifteen days after

their election present themselves before the Mayor, or, in his absence or disqualification, before one of the Supreme Judges, and take the oath of office, and choose from their number a presiding officer, and determine the time and place of holding their stated meetings (but may be convened by the Mayor at any time), and provide rules for their own proceedings. They shall also keep a journal of their proceedings, and at the desire of any member shall cause the "yeas" and "nays" to be taken and entered on any question, and upon the presentation of the written protest of any member, cause the same to be entered on their journal without comment.

§ 4. In the absence or disqualification of their President to act, they shall appoint from their body a President *pro tem.*, who shall be vested with all the power properly belonging to the President. A majority of the members shall constitute a quorum to do business. They shall judge of the qualifications of their successors, and all city officers, and determine contested elections, inflict reasonable fines and imprisonment on any member of their body, or other person, for disorderly or contemptuous conduct in their presence, levy and collect taxes, impose fines, offer rewards, regulate licenses, provide for the payment of public debt, and provide for the support and defence of the city, to enact laws, authorizing the purchase, rent or lease of any property the city may require, or to sell, rent, or lease public property, but shall not dispose of any of the public land, until the city shall have acquired title from the Government claiming the same, by purchase, Treaty, or otherwise, pledge the faith of the city to borrow money, do so by a vote of the citizens, stating for what purpose it is to be borrowed, and specifying the amount, but no specified property of the city shall ever be mortgaged for the payment of debt, or any other purpose, nor any pledge of the faith of the city, for a longer period than five years, nor money borrowed at a greater rate of interest than 8 per cent. per annum, nor shall any investment of the public money be made in any stock, company, or other scheme or speculation, nor shall the amount borrowed ever exceed 20 per cent. on the amount of taxes collected for the fiscal year for which the loan be made. Nothing contained in the foregoing sections shall be construed as a denial of the rights to erect any public building, wharf, &c., which may be required for the general good, charitable or other worthy donation, provided said donation be not greater than 1 per cent. on the amount of tax collected for the year in which the donation is made.

§ 5. They shall determine the proper qualification for office not herein provided for, determine the qualification of voters, establish time and place for holding elections, the manner of conducting the same, exact bonds from all persons holding offices of trust; to establish legal forms, fees, and salaries of officers; to make all laws, rules, and regulations necessary for carrying into effect the aforesaid powers; to do and perform all acts appertaining to a constitutional legislative body, not enumerated in this Constitution, or prohibited by it, or the declaration of rights.

ARTICLE VI. *Laws, Precedents, &c.*

§ 1. The Common Law of England shall be recognized, and the same is hereby incorporated in all the Courts of this Government.

§ 2. The decisions of the Supreme Courts of the United States of America shall be conclusive in all similar trials in any and all the Courts of this Government.

ARTICLE VII.

No officer shall be exempt from civil or criminal prosecution, in consequence of his office, excepting officers elected or appointed to conduct elections, who shall be exempt from arrest on the days of election.

ARTICLE VIII.

No law shall be enforced, until it shall have been published by written or printed notices, posted up at least ten days in the Council Chamber, and in three of the most public and often-frequented places in the city, in both the English and Spanish languages.

ARTICLE IX.

§ 1. No idiot or insane person, or person convicted of any infamous crime, shall be eligible to office, or entitled to the privilege of an elector.

§ 2. All elections held under this Constitution shall be by ballot; the ballot shall be a paper ticket, containing the name of the person or persons voted for, and designating the office to which each person so named is chosen.

§ 3. All male citizens over the age of twenty-one years, who shall have resided in this city thirty days next preceding the ensuing election (April 15, 1852), shall be entitled to exercise the right of an elector.

ARTICLE X.

§ 1. There shall be appointed by the citizens, at the time of the adoption of this Constitution, three inspectors of election, whose duty it shall be to provide a suitable ballot-box, with a lock and key attached thereto, and keep the same in their possession, in which they shall deposit the ballots, as received from the electors (after they, the inspectors, shall have opened the polls on the 15th day of April instant, at the hour of 9 o'clock A.M., and having continued the same open until 4 o'clock P.M.); and upon the closing of the polls, proceed to count out the ballots, declare the result of the election, and furnish the persons elected with certificates of their election.

§ 2. There shall also be appointed at the said meeting two clerks, whose duty it shall be to keep a separate poll-list, on which they shall record the names of the electors; and after the closing of the polls they shall record the names of the persons voted for, and to what office they are chosen, as they are called out by the inspectors, until they shall have recorded all the ballots.

§ 3. It shall be the duty of the inspectors, when a voter is challenged, to inform the person of the requisite qualification of an elector, and to decide upon the legality of the vote.

Amendment.

Should the Common Council at any time deem it necessary to alter or amend this Constitution, they shall state in writing the particular clause they purpose amending, and specify what alterations are deemed necessary, by publishing the same thirty days, requiring the qualified voters to vote, yea or nay, on the proposed amendment at the ensuing election. If two-thirds of the voters polled be in favour of the amendment, the alteration shall be made by the Common Council at its next regular meeting, in the very words and figures voted for by the people.

(Signed)

WM. P. KIRKLAND.
WM. B. GERRING.
J. V. PERES.
WM. H. DE FORREST.
JEAN MESNIER.
W. B. JADOWNISKI.
N. BOILVIN.
LEON MANCHO.

Inclosure 3 in No. 127.

Minute.

Greyltown, or San Juan del Norte, June 5, 1852.

"BE it ordained by the Common Council in Session, that we deeming it necessary under the present unsettled state of the territorial jurisdiction to define the position of the present Local Government, and satisfy all whom it may concern that we do hereby acknowledge that we exercise authority as the Government of this city, by virtue of the public voice of the citizens of this city, as given at a public meeting of the citizens called for that purpose, at which meeting the Constitution under which we act was passed and the present Government elected, all which was done with the consent and sanction of Her

Britannic Majesty's Consul at this city, and that we maintain a neutral position so far as regards the negotiations now in progress between Great Britain and the United States in relation to this city and territory."

Attest,
(Signed) WM. SHUBRICK WARE,
Secretary City Council.

Inclosure 4 in No. 127.

Address of the Mayor of Greytown.

Gentlemen of the City Council, Greytown, Mosquito, May 1, 1852.

HAVING this day received the honour of being placed at the head of the City Government by the suffrages of my fellow-citizens, I hope and believe you will, with myself, act for the best interests of the city and its inhabitants; and as we have received permission from the present Government in power to exercise the right of self-government, I trust we shall, in the future administration of this city, show that the trust has been worthily bestowed and honourably acted upon.

It will be one of your first duties to make such laws, if the same are not now in existence, and exercised, which will fully and effectually protect and preserve the life, liberty, and property of all. A proper and efficient police force will, in the present state of affairs of the city, become indispensable to the preservation of law and order, and I hope you will so organize it as to make it equal to any and all emergencies that may arise. The finances of the city will command your attention, and it is a matter of the first importance that a proper and correct manner or method be adopted in the organization, collection, receiving, and disbursing of the city finances.

The sanitary regulations of the city I need not dwell on; your own knowledge will of course guide you to a just appreciation of cleanliness and health: the public streets and squares should at all times be kept open and free from all incumbrances or rubbish.

The Regulations and Laws for the several City Courts, and officers of the city, in regard to fees, salaries, and emoluments, will require your early attention: they should not be excessive, but should be sufficient to induce a proper reliance upon them.

The regulations for the harbour, shipping, boats, &c., as well as the pilots and pilotage, will, I have no doubt, receive the attention the subject deserves.

The other wants of the city, you, Gentlemen, are as well aware of as myself: they are many; but believing that you will faithfully carry out the views and wishes of the inhabitants of the city, and perform your official duties with a due regard to the rights of all parties interested, I shall at all times hold myself in readiness to act fully and promptly upon every law and regulation your honourable body may deem necessary to be passed.

Hoping and believing that by thus acting we shall succeed, and place the social and commercial relations of this city upon a solid basis of prosperity and success, I am, &c.

(Signed) T. J. MARTIN,
Mayor of Greytown.

Inclosure 5 in No. 127.

Laws and Regulations of the Port of Greytown or San Juan del Norte.

ALL vessels entering at this port, after the 15th day of May of the current year, 1852, shall be subject to the following laws, regulations and charges:—

1. On the arrival off this port of any vessel, she will take on board a pilot, who will bring her into the harbour, and place her at proper anchorage; and in default thereof, such vessels shall pay one-half pilotage (except coasting-vessels duly licensed).

2. On coming to an anchor within the harbour, no person will be allowed to leave the vessel or come on board of her, until the Port Captain and Health

Officer shall have visited the said vessel; and in case of disobedience of this regulation, the vessel shall be subject to a fine of 25 dollars.

3. On the arrival of any vessel having sickness on board, it will be the duty of the Health Officer, after proper examination, to decide whether the said vessel shall be placed in quarantine; and if the said Health Officer so decide, it will be the duty of the captain or officer in command of said vessel to obey such orders as he may receive from the said Health Officer, and in default thereof, the said vessel will be subject to a fine of 200 dollars for each offence.

4. On the arrival of the Port Captain and Health Officer on board of any vessel, it will be the duty of the officer in command of said vessel to produce for examination his register, manifest, and a true and correct list of passengers and crew; and also to allow the Health Officer to examine the condition of the health of all persons on board the said-vessel; and for refusing to comply with these regulations, the said vessel will be subject to a fine of 100 dollars for each offence.

5. No vessel shall at any time throw ballast overboard in the harbour nor take in ballast except at such places as may be appointed by the Port Captain, under a penalty of 500 dollars for each offence.

6. No vessel in the harbour will be permitted to be used as a store, for the sale of merchandize of any kind whatever, and no captain, owner, or supercargo will be allowed to make sales of goods of any kind on board the said vessel; and for every breach of this regulation, the person or persons so offending shall be subjected to a fine of 1,000 dollars.

7. All vessels except coasting-vessels duly licensed, will be subject to the following port-charges while lying in the harbour and port of Greytown or San Juan, viz.:—

For pilotage in the said harbour, for all sailing-vessels drawing less than fifteen feet of water, 2 dollars per foot.

For pilotage out of said harbour of all sailing-vessels drawing less than fifteen feet, $1\frac{1}{2}$ dollars per foot.

For pilotage in said harbour of all sailing-vessels drawing fifteen feet or over, $2\frac{1}{2}$ dollars per foot.

For pilotage out of said harbour of all sailing-vessels drawing fifteen feet or over, 2 dollars per foot.

For pilotage in and out of said harbour of all steam-ships, the sum of 25 dollars.

For the visit of the Port Captain, the sum of 3 dollars.

For visit of the Health Officer, the sum of 3 dollars.

For the visit of the Port Warder, 2 dollars and 50 cents.

For the right of anchorage, the sum of 5 dollars.

For entry, certificate, and bill of health, the sum of 2 dollars.

By order of the City Council.

(Signed)

WM. SHUBRICK WARE,
Secretary City Council.

No. 128.

The Earl of Malmesbury to Mr. Crampton.

(Extract.)

Foreign Office, July 16, 1852.

I TRANSMIT to you herewith copies of communications of some importance which have been recently received at this office from Consul-General Wyke and Consul Green at Greytown.* By those communications Her Majesty's Government learn, first, that the local Government of Greytown has lately been reconstituted on a more self-dependent basis than heretofore; and, secondly, that thus reconstructed, it has evinced a decided repugnance to the idea of the annexation of Greytown to the State of Nicaragua, as projected in the draft of Convention agreed upon between the United States' Government and yourself, and subsequently sanctioned, with certain suggested modifications, by Her Majesty's Government.

It would further appear that the new Government of Greytown has begun

* Nos. 126 and 127.

its career by acts of no small vigour and self-reliance, and that, so far as can be hitherto, judged, it is equally determined and able to repress disorder or disturbance from whatever quarter they may be attempted.

It does not, however, appear that, in repudiating the projected supremacy of the State of Nicaragua, the newly-formed Governing Council of Greytown has as yet evinced the same aversion to the idea of a nominal paramountship on the parts of Mosquito or of Costa Rica. But it is evident that the ultimate result to which it looks is a sort of Hanseatic independence under the joint guardianship of the United States and Great Britain.

It is probable that before this despatch can reach you, you will have already received direct from Greytown the same important intelligence, and that you will have conferred with Mr. Webster as to the course to be pursued under the altered circumstances in which Greytown is thus placed, and especially as to the modifications which may in consequence be required in the terms of the Convention.

It is, however, desirable that I should without delay explain to you the view which Her Majesty's Government take of this matter under its changed aspect, and the course which they would desire to pursue.

Her Majesty's Government have no wish whatever that Greytown should belong to Nicaragua. They never had any inclination for such an arrangement; and it was only because it had been strongly advocated by the United States' Government, and because such a disposition of Greytown appeared to offer the best prospect of the settlement of a question surrounded with difficulties, that Her Majesty's Government, after much consideration, gave their assent to that arrangement.

If, therefore, the United States' Government should now see reason, in consequence of the late changes at Greytown, and the manifestation of a repugnance to annexation to Nicaragua, to prefer some other scheme more in concurrence with the wishes of the Government and inhabitants of Greytown, Her Majesty's Government would willingly fall in with those views, whether by placing that port under the nominal supremacy of Mosquito or of Costa Rica, or by constituting Greytown as a free and independent port, under the joint guardianship of Great Britain and the United States.

Her Majesty's Government would naturally prefer, in the first instance, as in their opinion the best arrangement, that Greytown should remain precisely as it is now, nominally under the supremacy of Mosquito, but really independent; and that both Great Britain and the United States should unite in affording protection to Greytown thus constituted, leaving it open to the new free port to work out its own absolute independence of all foreign control, or to become itself the head of the Mosquito State, as time and circumstances may hereafter determine.

It is obvious that Greytown, being once established as a great commercial emporium at the Atlantic end of the Nicaragua Canal, must one day, by its rapidly increasing wealth and power, play a very principal part in the political affairs of Central America, and tend to absorb into its circle, and exercise eventual dominion over the contiguous territories, whatever present destiny may be assigned to it.

All that Great Britain must insist on, as indispensable to her honour and credit, is, that whatever arrangement for the disposal and position of Greytown may now be decided on, indemnification or advantages equivalent to those laid down in the project of Convention of April 30, 1852, shall be assured to Mosquito in return for its withdrawal from its present position with regard to Greytown.

Her Majesty's Government, after the long and steadfast protection which Great Britain has afforded to Mosquito, could not consent now to abandon that country without first securing to it those present and future advantages to which it may fairly lay claim at their hands.

Her Majesty's Government feel confident that the United States' Government will view this question in the same light with themselves, and readily lend their aid in placing the territory of Mosquito on a satisfactory footing, such as is assigned to it in the first Article of the project of Convention of April 30, 1852.

There does not appear to be reason to apprehend much difficulty on the part of Nicaragua in carrying out whatever new disposition may be thought

desirable by Great Britain and the United States with regard to Greytown. In the first place, the Government of Nicaragua appears to be still in too unsettled a state to enter upon the negotiations proposed to it. In the second place, even if it were in a fit state to do so, it is almost certain that, as it has always pretended to ignore the very existence of the Mosquitos as a nation, and has asserted its own indefeasible right not only over Greytown but over the whole Mosquito territory, it would at once reject every proposition which should have for its object the conditional cession to it of Greytown, and the recognition of the Mosquito territory, even in the greatly-reduced proportions suggested in the draft of Convention.

Of these difficulties, therefore, on the part of Nicaragua, Great Britain and the United States might avail themselves to break off the negotiation with that State, and to carry out any new arrangement which might appear to be more for the general benefit with respect to Greytown and Mosquito.

Whatever that arrangement might be, Nicaragua could hardly venture forcibly to oppose it in the face of the combined will and action of Great Britain and the United States.

Such, then, are the views of Her Majesty's Government, and by those views thus developed you will be guided in your further conferences with the United States. But you will still understand that the paramount object of Her Majesty's Government is to bring this difficult question to an honourable termination while it can yet be done. You will, therefore, consider yourself as having a wide discretion as to the precise terms or mode of the arrangement to be made; and you will employ your utmost exertions to conclude the negotiation.

No. 129.

Mr. Crampton to the Earl of Malmesbury.—(Received July 19.)

(Extract.)

Washington, July 4, 1852.

I LOST no time in reading to Mr. Webster your Lordship's despatch of the 18th ultimo, in which your Lordship states what alterations appear to Her Majesty's Government to be desirable in the project of arrangement for settling the various pending questions relative to Central America, and especially to the future disposal of Greytown, and the boundaries between Mosquito, Nicaragua, and Costa Rica respectively, a copy of which project of arrangement I had the honour of transmitting to your Lordship with my despatch of the 3rd of May last.

Mr. Webster and myself have examined carefully the different points to which your Lordship has directed my attention; and I have much satisfaction in stating that I have found no difficulty in inducing the Government of the United States to adopt the modifications proposed by Her Majesty's Government, or, indeed, any other alterations which would serve to give clearness and precision to the provisions of the project of Agreement, and would render it conformable to the views of Her Majesty's Government.

It appears to us, upon a comparison of the remarks contained in your Lordship's despatch, and the Articles of the project of Agreement, that the views of Her Majesty's Government and those of the United States' Government in reality coincide in regard to the points in question, and that it is to some unintentional obscurity or ambiguity in the wording of those Articles that the objections of Her Majesty's Government are to be attributed; for it was not intended by any change which has been made in that wording to alter the provisions of the original project of Agreement which had met with the approbation of Her Majesty's Government in any essential particular, either with regard to the boundaries of the Mosquito territory or to the principle deemed essential by the United States' Government, as well as by Her Majesty's Government, of the freedom of the port of Greytown.

Mr. Webster said he regretted that the wording of the Articles in regard to these points had been found inadequate to convey to Her Majesty's Government the meaning of the terms of the project of Agreement as he, as well as myself, had understood them, but expressed himself ready to adopt any alterations which might be found necessary to prevent misapprehension in regard to them, or

remove from them all ambiguity ; and this appeared to him to be a matter of little difficulty.

I will now touch upon the different points in regard to which Her Majesty's Government desire that alterations should be made in the project of Agreement, stating in what manner it is proposed to meet each case, and endeavouring to show the source from which the apparent discrepancy of the present wording with the intended meaning has arisen.

The modifications desired by Her Majesty's Government regard four points, namely :

1st. The definition contained in the 1st Article of the project of Agreement of the boundary of the territory reserved for the Mosquito Indians.

2ndly. The words in the same Article "all the rest and remainder," which, unless qualified, might, it is apprehended, give rise to a claim by Nicaragua to territory south of the River San Juan as far as the Boca del Toro.

3rdly. The indefinite expressions "southerly and westerly" in the same Article, which it appears to Her Majesty's Government might be held to include the cession by Mosquito to Nicaragua of all their territory north-westward of the Wanx,—territory a great part of which is claimed by Honduras, thereby interfering with the rights of British subjects in that territory, especially in regard to the grant of the Mosquito King, George Frederic, in 1820, to General McGregor, which cession led to the speculation so notorious under the title of "Poyais bonds."

4thly. The provision in Article I of the project of Agreement which determines the reserve and scale of compensation assigned to the Mosquitos for the relinquishment of Greytown to Nicaragua, which would seem, if not more clearly expressed, to be incompatible with the freedom of the port of Greytown.

With regard to the first of these points, namely, the name of the river forming the northern boundary of the territory reserved for the Mosquito Indians, the river intended to be designated is the Wanx, as laid down in Bailey's map, and not the Segovia as laid down in that map. The insertion of the words "at Cape Gracias á Dios" after the words "Carribean Sea" will, therefore, in Mr. Webster's opinion, be quite proper and obviate any mistake on that point. The error in this respect arose from the circumstance of Bailey's map of Central America having been used in drawing up this Article, when the word "Wanx" alone was used to designate the river in question. But the President of the United States in looking over the project, happening to have a map before him by another author, on which the river was marked "Wanx or Segovia," not suspecting any discrepancy between the two maps, added the word "Segovia," which was inserted when the draft was copied out for signature, and the addition escaped the attention both of Mr. Webster and myself.

With regard to the second point, namely, the possibility of a claim on the part of Nicaragua to territory south of Greytown as far as Boca del Toro in virtue of the words "all the rest and remainder of the territory, southerly and westerly, of the said reservation heretofore occupied or claimed by the said Mosquitos," the United States' Government has no objection to the insertion after the words "including Greytown" of the words "to the northward of the San Juan." This addition will certainly remove the possibility of any doubt on the point in question. The introduction, however, of those words had not, on drawing up the Article, been thought necessary for two reasons ; first, by another Article of the project of Agreement it is stipulated that the territory south of the San Juan (or rather south of its southernmost branch called the Colorado) was to belong to Costa Rica, which would bar any claim to it by Nicaragua ; and, secondly, from the impression we were under, that the territory claimed by the Mosquitos did not extend south of the San Juan.

The third point in regard to which Her Majesty's Government desires a modification of the project of Agreement, regards that part of the territory of the Mosquitos north of the Wanx claimed by Honduras. It was not the intention of either Mr. Webster or myself that the Treaty which he had in contemplation should have any reference whatever to Honduras, or to the conflicting claim which might exist as to territory between that State and the Mosquito Indians. All that was meant was to provide for the arrangement of the question in regard to territory between Mosquito and Nicaragua. Now the River Wanx is mutually acknowledged by Honduras and Nicaragua to be the boundary between those States ; consequently in adopting that river as the northern boundary of

the Mosquito reserve, it was conceived that the provisions of the Treaty could in no way refer to Honduras, and leave the question of the boundary between her and Mosquito untouched. For the same reasons the expressions ‘southerly and westerly’ in the same Article of the project were considered by us as applicable to the southern and western parts of Nicaragua only, it being always supposed that Nicaragua had a recognized boundary as regarded Honduras and Costa Rica, and that Honduras being no party to the Treaty could not be affected in any way by an arrangement between Mosquito and Nicaragua of rights or limits with regard to which they might be at issue. We did not think it necessary to mention this in the project of Agreement; but Mr. Webster has no objection whatever to the insertion in the Treaty of an Article by which it shall be distinctly stated that the arrangement has no relation to any question of limits or rights which may exist between Honduras and the Mosquitos. The insertion of such an Article will, it is evident, remove the possibility of any future misapprehension in regard to this point, and thus obviate the necessity of any provision or declaration in regard to the grant alluded to by your Lordship on the Black river or Poyais, to which, from its position within the limits of Honduras, as those limits are acknowledged by Nicaragua herself, Nicaragua could not advance any claim.

The fourth point in regard to which your Lordship wishes further explanation, and is desirous that the Treaty should be more explicitly worded, is the provision for the mode and scale of compensation assigned to the Mosquitos for their relinquishment of Greytown to Nicaragua. That compensation is allotted on duties levied at Greytown on goods which may be imported into Nicaragua for three years from the date of its actual cession to Nicaragua, and the scale of compensation is fixed at 10 per cent. *ad valorem* of the total amount of the goods imported. Your Lordship remarks that you understand the Article as it stands to mean that no duties are to be levied on goods entering the port of Greytown, but that on all goods imported into that town, and leaving it for the State of Nicaragua, a duty of 10 per cent. *ad valorem* is to be levied for a period of three years from the date of the cession of the port of Nicaragua, that amount to be paid directly to the agent of the Mosquitos. This certainly is the understanding both of Mr. Webster and myself of the Article, and he entertains no objection to the insertion of any words which may render it clear that it is so; or even to the insertion of a separate Article in regard to the freedom of the port of Greytown—a point considered by the United States’ Government of great importance, and already stipulated between the two Governments by the Treaty signed at Washington on the 19th of April, 1850, Article IV.

Mr. Webster had, however, thought that the words of the IInd Article of the project of Agreement in regard to the port of Greytown had sufficiently secured this point, namely, the words “The municipal and public authority in the town of Greytown shall be held and exercised by the Government of Nicaragua, but said Government shall lay no duties of tonnage or any duties of impost on goods imported into Greytown intended for transit across the Isthmus or for consumption in any other State than that of Nicaragua, except such tonnage duty as may be necessary for the preservation of the port and harbour, and the erection and maintenance of the necessary lighthouse and beacons, and no duty for this or similar purposes shall exceed, say, 12 cents per ton on each vessel.”

With regard to the compensation to be made by Nicaragua to the Mosquitos for the relinquishment of Greytown, I have invariably stated to all the parties concerned that the reality of this compensation is considered to be a *sine quâ non* by Her Majesty’s Government. I have, however, still reserved the actual amount of the compensation for consideration, from the difficulty I have experienced in obtaining any reliable information as to the value of the cession, and as to the ability of Nicaragua to meet any engagement she might make in this respect.

The above comprise the points in regard to which Her Majesty’s Government are desirous that alterations should be made in the provisions of the project of Agreement, and care will be taken when the Treaty, of which the project of Agreement is only to be considered as the rough sketch, shall come to be drawn up, it shall be done in such a manner as to preclude the possibility of misapprehension.

It would no doubt be impracticable now to introduce these modifications

into the project or basis of Agreement, which has by this time been submitted to the Governments of Costa Rica and Nicaragua; but I am enabled to assure your Lordship that the British and American Commissioners who are charged with making the proposed terms known to those Governments, understand them in the same sense as Mr. Webster and myself.

In the correctness and propriety of the concluding remarks of your Lordship's despatch Mr. Webster entirely concurred, and expressed himself as sincerely desirous to terminate this matter in a manner which would be satisfactory to Her Majesty's Government.

I have read my present despatch to Mr. Webster, who authorises me to state to your Lordship that it contains a perfectly correct account of what passed between us in regard to this question.

No. 130.

Mr. Crampton to the Earl of Malmesbury.—(Received July 19.)

My Lord,

Washington, July 4, 1852.

I HAVE the honour to inclose the copy of a letter which has been received by Mr. Webster from Mr. Walsh, the American Commissioner charged with the project of Agreement signed by Mr. Webster and myself for the settlement of the Central American and Mosquito question. This letter, of which Mr. Webster was so obliging as to furnish me with a copy, is dated San José, the capital of Costa Rica, on the 11th ultimo.

It appears that the British and American Commissioners have been received with great courtesy by the Government of Costa Rica; and Mr. Walsh seems to think that there are good grounds for expecting a prompt acquiescence in the proposed arrangement by that Government.

I have, &c.

(Signed)

JOHN F. CRAMPTON.

Inclosure in No. 130.

Mr. Walsh to Mr. Webster.

Sir,

San José, June 11, 1852.

WE left Greytown on the 31st ultimo, and got here on the 8th instant, after a journey of which the fatigue and risks would be difficult to describe. Four days and three nights were spent in the boat in which we were rowed to the landing-place of the Serapiqui, and four days and a half in crossing the mountains to this place, scrambling up and down precipices of most formidable aspect, or wading through quagmires from which extrication at times seemed to be almost impossible. It will be out of the question for Costa Rica to cultivate much intercourse with the foreign world until a road is constructed to the Serapiqui.

At the landing-place there is a sort of military post, where we were received by the officers in command with all due courtesy, and had the satisfaction of finding mules and men to carry our luggage and provisions sent by the Government itself, which had been apprised of our coming by the messenger we had dispatched to procure the means of transport. When within a few miles of this city, we were met by an aide-de-camp of the President, with a note from him, congratulating us on our arrival, and placing a house at our service, to which we were immediately conducted. It is one of the best in the town, belonging to one of the principal families, who moved from it expressly for our accommodation—an act of hospitality and kindness well deserving of record. There is evidently every disposition to manifest all possible friendliness both public and private, the mission being regarded not only as a great compliment, but as something from which benefit may accrue to the country.

We have had interviews with the President and the Minister for Foreign Relations, and have sent to the latter a copy of the proposed arrangement, with

the alterations directed to be made in it by the despatch of May 13, from the Acting Secretary of State. There are good grounds, I think, for expecting a prompt acquiescence in the views of the two Governments.

I have, &c.

(Signed) ROBERT M. WALSH.

No. 131.

Mr. Crampton to the Earl of Malmesbury.—(Received August 1.)

My Lord,

Washington, July 18, 1852.

A DESPATCH has been received by the United States' Government from Mr. Walsh, the American Commissioner, charged in common with Mr. Wyke, Her Majesty's Consul-General to the Central American States, to propose to Costa Rica and Nicaragua the conclusion of an arrangement based upon the project drawn up by Mr. Webster and myself on the 30th of April last, for the settlement of the questions pending in regard to boundaries between Costa Rica, Nicaragua, and the Mosquito Indians.

Mr. Walsh's despatch is dated from San José (the seat of the Costa Rica Government), the 25th ultimo, and announces the consent and adhesion of that Government to the proposed terms.

Mr. Hunter (the Acting Secretary of State) having been so obliging as to furnish me with a copy of Mr. Walsh's despatch and of its inclosures, I have the honour to forward them to your Lordship herewith.

Your Lordship will perceive that the decision of the Executive has been confirmed by a Decree of the Congress of Costa Rica.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 131.

Mr. Walsh to Mr. Webster.

Sir,

San José, June 25, 1852.

INCLOSED are copies of correspondence with the Minister of Foreign Relations, and a Decree of the Legislative Body approved by the President, from which you will perceive that the Government of Costa Rica has given its full consent to the proposed Treaty. The modifications suggested in the last note of the Minister are mere requests in no way affecting that consent. They were discussed in our conferences, but we could only promise to communicate them to our Governments, with a recommendation of them to their kindly consideration. This Government seems to be animated in all respects with the very best spirit, on which too much praise can scarcely be bestowed.

We shall proceed to Nicaragua without delay. If not unexpectedly detained there, I may be able to return to Washington by the end of next month, taking with me the originals of the documents above-mentioned.

I have, &c.

(Signed) ROBERT M. WALSH.

Inclosure 2 in No. 131.

Messrs. Walsh and Wyke to Señor Calvo.

San José, June 10, 1852.

THE Undersigned, Commissioners of the United States and Great Britain, have the honour to inclose to his Excellency the Minister of Foreign Relations, a copy of the propositions which they are directed by their Governments to offer for the adjustment of the difficulties in regard to limits between the Republics of Costa Rica and Nicaragua.

It was after full investigation and mature deliberation that the two Govern-

ments determined upon these propositions, as most conducive to the ends of justice and the interests of the contending parties; and they cherish the confident hope that they will be promptly and willingly accepted.

The advantages to Costa Rica which will accrue from their acceptance are various and all-important. She will be relieved, in the first place, from that state of harassing agitation which the perpetual danger of foreign hostilities must keep up, and which is so baneful in its influence upon the industry and progress of a people. Men care not to work for the future when that future is clouded over with uncertainty and apprehension. To remove an evil of such magnitude great sacrifices may well be authorised; and were no other inducement presented, this alone would be sufficiently strong to call for a ready acquiescence in any arrangement which secures the blessings of tranquillity without the loss of honour.

But Costa Rica, in the next place, is not asked to make any concessions for which abundant compensation is not tendered. If she abandons some of her pretensions on the Atlantic, she establishes all of her pretensions on the Pacific. If she yields the barren Delta of the Colorado, she gains the fertile district of Guanacaste. Even on the Atlantic side, also, she obtains the acknowledgment of an important right which she has not hitherto been able to enjoy—that of having the River San Juan for her boundary, and navigating it with all descriptions of vessels which do not interfere with the indispensable privileges of the Company that has been formed for the construction of the Interoceanic Canal.

Again; a cheerful compliance with the proposals of the two Governments will have the effect of awakening in them sentiments of kindness towards this country which cannot fail to be attended with great and increasing benefit. The time is manifestly at hand when the relations between Costa Rica and the other nations of the earth are to be placed on a new and more elevated footing; when the comparative seclusion in which she has heretofore dwelt is to be exchanged for that intercourse with the world which it is the interest and the duty of every Government to promote, as one of the chief guardians of civilization and the firmest bond of brotherhood among men. Of the friendly ties which will thus be formed, the most important, certainly, must be those which will connect her with Great Britain and the United States—countries whose position and influence point them out as allies from whose good offices the most useful aid may be derived.

The advantage that will result to Costa Rica from the construction of the Canal should also be taken into account. To over-estimate it, indeed, would be difficult. The door will be at once opened to that fraternal intercourse alluded to above, and the whole of this beautiful region will soon be brought under the fertilizing flow of a healthy emigration. The geographical position of Costa Rica is admirable; its moral position will be commensurately raised. Abounding in all the elements of national prosperity, what it needs is a population adequate to their full development. Such a population will be the inevitable consequence of the opening of the proposed route; not mere adventurers, seeking immediate gain, at whatever detriment to others or hazard to themselves, but permanent, effective labourers in the great field of improvement.

Another, and a final motive, which may be adduced, is one that must appeal too powerfully to a Government actuated by such feelings and aspirations as those of the Government of this Republic to require much stress. The magnificent enterprise in contemplation is not designed for the exclusive benefit of those directly concerned in it, but for the benefit of mankind. The Governments that have taken it under their especial care, are not prompted by narrow and selfish views. Their aim is the accomplishment of a work which will be productive of universal good. The glory to be earned by those who may contribute to it, will be of a kind than which the page of history can hardly exhibit any more enviable or exalted—the glory of having created, not only a fresh and abounding channel of material wealth, but another and most efficient means of diffusing peace and goodwill. Such an opportunity of enrolling her name among the benefactors of the human family is not often accorded to a nation; and it is one which the Undersigned cannot doubt will be eagerly seized by the enlightened men who preside over the destinies of Costa Rica.

The Undersigned, &c.

(Signed)

ROBERT M. WALSH.
CHARLES LENNOX WYKE.

Inclosure 3 in No. 131.

Señor Calvo to Messrs. Walsh and Wyke.

(Translation.)

San José, June 16, 1852.

THE basis proposed by the Governments of Great Britain and the United States for a definitive settlement in regard to the question of territorial limits between Costa Rica and Nicaragua, and other interesting matters, having been taken into consideration, the most excellent President of the Republic, under this date, has been pleased to dictate the following Resolution:—

“Having seen and examined the Convention signed at Washington on April 30th by the Representatives of Great Britain and the United States, which Convention has for its object to propose the basis of an arrangement between the Republic of Costa Rica and the State of Nicaragua, in regard to the question of territorial limits (other points relative to the Mosquito territory and the Atlantic and Pacific Interoceanic Canal being defined at the proper time upon the said basis), several conferences having been held between the Ministers of State of this Government and the Señores R. M. Walsh, Special Envoy of the Government of the United States, and C. L. Wyke, Consul-General of Her Britannic Majesty; and considering that although one of the limits at the north of the territory of the Republic has been, and is, by the Constitution and by various authentic documents which exist, the mouth of the River San Juan in the Atlantic Ocean, and notwithstanding that the Republic was not consulted at the time of celebrating the contracts which have been made for the great work of the Interoceanic Canal across the Isthmus, nor that the independence of Costa Rica is directly affected by questions with the Mosquitos; nevertheless, in consideration of the respectable mediation of the Governments of the maritime Powers of Great Britain and the United States of North America, of the great interest of all the commercial nations of Europe and America in the construction of the Interoceanic Canal, and of the desire of terminating pacifically and amicably with our neighbour, the State of Nicaragua, the pending territorial questions, the Executive Power of the Republic of Costa Rica in Central America assents, adheres, and subscribes to the basis proposed in Washington on the 30th April last, and contained in seven Articles, which have been presented to this Government by the Señores Walsh, Envoy of the United States, and Charles L. Wyke, Consul-General of Her Britannic Majesty, specially authorised for the purpose, and, at the proper time, the Republic will concur in the formation of the definitive Treaty which is to be celebrated upon the said basis. This resolution to be communicated to the most excellent Legislative Power, in order that it may be pleased to approve it, if it be deemed expedient, and to be brought to the notice of the Señores Walsh and Wyke for their information.”

And in transmitting to the Señores Walsh and Wyke the foregoing resolution, the Undersigned has received orders to state that it would be desirable that in the definitive Treaties, the sacrifice of Costa Rica in the demarcation of her territorial limits, in taking at the north the River Colorado, instead of the northern branch of the San Juan, should not be insisted on, since the right which the Republic preserves, and possesses from time immemorial, to the said River San Juan as far as its mouth in the Atlantic—the limit at the north of the same Republic which is pointed out by the Constitution, and recognised by Spain, the Holy See, and other Powers with whom Treaties exist—is indisputable; that it would also be desirable that there should not be granted to the Company of the Interoceanic Canal the right of asking upon the territory of Costa Rica for any section of land, seeing that neither the Government of Nicaragua nor the aforesaid Company requested the Government of the Republic to concur in the contracts relative to the enterprise of the Canal, but, on the contrary, treated it with contempt,—disposing, in fact, of territory under its jurisdiction, or which at least was questionable, which it possessed in good faith and with a just title; but if it be determined that that right in the territory of Costa Rica shall be granted to the Canal Company, then it is to be hoped that each section will not exceed three square miles, or, what is the same thing, one league in length and another in breadth, the Republic reserving to itself the supreme dominion and the exercise of its sovereignty over whatsoever society or colony which may be established in each of the said sections of land. That, in the same manner, it

would be desirable that if, by circumstances not within our reach, it be wished to carry into effect the right of the Company to occupy other sections in territory of Costa Rica, instead of taking them in that of Nicaragua, this Government will not be bound to make any posterior arrangement with the Government of that State, but that the Company should negotiate with it the indemnity to which Costa Rica may be entitled previous to the agreement which may be made in regard thereto. That, moreover, it would be desirable to fix in the Treaty the principle that in no case shall there be established in San Juan differential export duties for any State, nor greater than those which are exacted from the most favoured nation, whatever may be the right which it may have in the port, and whatsoever may be the produce and articles of exportation; and, finally, that it would be in the same manner desirable that the fulfilment of the Treaty remain, by an express Article, under the respectable guarantee and vigilance of the Governments of the United States and Great Britain.

The Government of Costa Rica hopes, from the enlightened judgment of Señores Walsh and Wyke, that they will be pleased to take into consideration the reasons already advanced, and that by their direct influence they will use their best endeavours in urging them upon the high consideration of their respective Governments, whose sense of justice inspires the authorities and people of this Republic with the greatest confidence.

The Undersigned, &c.

(Signed)

JOAQUIM BERNO. CALVO.

Inclosure 4 in No. 131.

Messrs. Walsh and Wyke to Señor Calvo.

San José, June 17, 1852.

THE Undersigned have the honour to acknowledge the receipt of the note of his Excellency the Minister of Foreign Relations, dated yesterday, communicating to them the resolution of the President of the Republic, by which he consents to the propositions made by their Governments for the adjustment of boundaries between Costa Rica and Nicaragua, and which, he informs them, will be submitted to the Legislative Body for approval.

It is with sincere gratification that the Undersigned have learnt this decision of the President, so worthy of his eminent character, and they doubt not that the wisdom and patriotism of the Legislature will sanction it without delay.

The remarks added by the Minister respecting the changes which the Government of Costa Rica would wish to have made in the definitive Treaty to be celebrated at Washington, will be conveyed to the two Governments at the earliest moment, and cannot fail to receive a respectful and friendly consideration.

The Undersigned, &c.

(Signed)

ROBERT M. WALSH.

CHARLES LENNOX WYKE.

Inclosure 5 in No. 131.

Señor Calvo to Mr. Walsh.

Señor,

Palacio Nacional, San José, Junio 25 de 1852.

ES muy honroso y satisfactorio al Infrascrito poder pasar á manos del Señor Walsh un ejemplar auténtico del Decreto que el Presidente de la República, con plena autorizacion de la Representacion Nacional, se servió expedir el 23 ultimo, confirmando y ratificando el asentimiento y adhesion de Costa Rica á las bases firmadas en Washington el 30 de Abril del presente año para una Convencion que dé por resultado el termino definitivo y amistoso de la cuestion de limites territoriales pendiente entre esta República y lá de Nicaragua, y remueva les dificultades que pudieran embarazar la pronta construccion proyectada del Canal Interoceanico.

Persuadido el Gobierno de la estrecha necesidad y conveniencia de conservar inalterables las fraternales relaciones que felizmente existen entre Costa Rica y Nicaragua, y de que se aleje de los dos países todo motivo de desacuerdo que pudiera afectarlos, ha considerado el negocio con el mayor interés, y le ha dado la preferencia que demanda su importancia, suscribiendo, después de una madura deliberación, á las bases indicadas en testimonio de su decisión por el principio conservador de las sociedades, que es la paz universal.

No es esto solo que ha movido al Gobierno á aceptar las bases que se refieren. Es el deseo de contribuir por su parte al bien del género humano; es la esperanza de que mejorará positivamente la suerte de Costa Rica y la de Nicaragua, llevándose á cabo la grande obra del Canal Interoceánico; es la confianza suma que tiene en los Gobiernos de las primeras Potencias marítimas de Europa y de América, que tanto se interesan en el porvenir de estas regiones; y es en fin el sincero aprecio con que mira la alta mediación de los mismos Gobiernos en asuntos que tal vez ofrecerían en lo sucesivo graves consecuencias contra el orden y la seguridad de pueblos hermanos y vecinos. Así, el Gobierno se halla muy contento de que una oportunidad, como la presente, le hubiese proporcionado el medio de uniformar sus sentimientos con los del de los Estados Unidos y del de la Gran Bretaña en el importante negocio de que se han ocupado, y hace fervientes votos por que él sea concluido con el feliz éxito que es de desearse.

El Infrascrito, &c.

(Firmado)

JOAQUIM BERNO. CALVO.

(Translation.)

Sir,

National Palace, San José, June 25, 1852.

IT is very honourable and satisfactory to the Undersigned to be able to transmit to you an authentic copy of the Decree which the President of the Republic, with the full authorization of the National Representative Body, was pleased to issue on the 23rd ultimo, confirming and ratifying the assent and adhesion of Costa Rica to the bases signed at Washington on the 30th April of the present year, for a Convention the object of which should be to terminate definitively and amicably the question of territorial limits pending between this Republic and that of Nicaragua, and to remove those difficulties which might embarrass the speedy construction of the projected Interoceanic Canal.

The Government being persuaded of the entire necessity and propriety of preserving unchanged the fraternal relations happily existing between Costa Rica and Nicaragua, and of removing from the two countries every cause for disagreement which might affect them, has considered this matter with the deepest interest, and has given to it the superior attention demanded by its importance, subscribing the bases above alluded to, after the most mature deliberation, in testimony of their adhesion to universal peace, the maintaining principle of society.

This is not the only motive which has induced the Government to accept the bases referred to. It has been actuated also by the wish to contribute its quota to the welfare of the human race; by the hope of improving the condition of Costa Rica and of Nicaragua, through the completion of the great work of the Interoceanic Canal; by the entire confidence it feels in the Governments of the first maritime Powers of Europe and America, who are so deeply interested in the future condition of these countries; and by the sincere appreciation with which it regards the mediation of those Governments in cases which might, perhaps, hereafter produce serious results against the order and security of fraternal and neighbouring nations. The Government is, therefore, very glad that an occasion like the present affords it the means of assimilating its sentiments to those of the Governments of the United States and of Great Britain in the important affair which has occupied them; and it puts up fervent prayers that the same may be completed with the happy result which is to be wished for.

The Undersigned, &c.

(Signed)

JOAQUIM BERNO. CALVO.

Inclosure 6 in No. 131.

Decree.

POR cuanto del Excelentísimo Poder Legislativo Nacional se ha recibido el Decreto No. 10, del día de ayer, que dice :

Numero 10. Juan Rafael Mora, Presidente de la República de Costa Rica. Por cuanto el Excelentísimo Congreso Constitucional ha decretado lo siguiente :

El Excelentísimo Congreso Constitucional de la República de Costa Rica :

Con presencia de las bases convenidas en Washington por los Encargados de las dos grandes Potencias de la Gran Bretaña y los Estados Unidos del Norte sobre la cuestion de limites territoriales que existe entre el Estado de Nicaragua y la República de Costa Rica, y en vista de la aprobacion que les ha acordado el Supremo Poder Ejecutivo :

Decreta—

Artículo unico.—Se aprueba el asentimiento, adhesion, y suscripcion que el Supremo Gobierno de la República ha acordado en providencia de 16 del corriente á las bases convenidas en Washington el 30 de Abril último, por Representantes de los Gobiernos de la Gran Bretaña y de los Estados Unidos para un acomodamiento entre la República de Costa Rica y el Estado de Nicaragua sobre la cuestion de limites territoriales pendiente entre ambos paises.

Al Poder Ejecutivo.

Dado en el Palacio de los Supremos Poderes en San José á los 22 dias de Junio de 1852.

(Firmado)

MIGUEL MORA, *Vice-Presidente.*

B. CARRANZA, *Secretario.*

JOSE MARIA GARCIA, *Secretario.*

Por tanto ejecutese.

Palacio Nacional, San José, 23 de Junio de 1852.

JUAN RAFAEL MORA,

El Ministro de Estado en el Despacho de Gobernacion.

JOAQUIM BERNO. CALVO.

Por tanto he tenido á bien aprobar, confirmar y ratificar, como por los presentes apruebo, confirmo y ratifico, las enunciadas bases constantes de siete Artículos, y firmadas en Washington el 30 de Abril del presente año por el Señor Daniel Webster, Secretario de Estado de los Estados Unidos, y el Señor Juan F. Crampton, Enviado, &c., de Su Magestad Británica, quedando tambien aprobada, confirmada y ratificada por las presentes la resolucion de este Gobierno de 16 del presente mes ; y en su virtud será cumplido y observado en la República de Costa Rica todo lo que á ella conviene respecto de las espresadas bases y de la mencionada resolucion.

En fé de lo cual he hecho expedir las presentes, por triplicado, firmadas de mi mano, selladas con el gran sello de la República, y reformadas por el Secretario de Estado en el despacho de Relaciones Exteriores en San José á los 23 dias del mes de Junio de 1852.

(Firmado)

JUAN R. MORA,

El Ministro de Estado en el Despacho de Relaciones Exteriores.

JOAQUIM BERNO. CALVO.

(Translation.)

THE Decree No. 10, of yesterday's date, has been received from the National Legislative Power, to the following effect :

Number 10. Juan Rafael Mora, President of the Republic of Costa Rica. Whereas the Constitutional Congress has decreed as follows :

The Constitutional Congress of the Republic of Costa Rica :

In view of the bases agreed to in Washington by the Agents of the two great Powers of Great Britain and the United States of the North upon the question of territorial boundaries pending between the State of Nicaragua and the Republic of Costa Rica, and looking to the approval given to the same by the Supreme Executive Power :

Decrees—

Sole Article.—The assent, adhesion, and subscription which the Supreme Government of the Republic has given by its resolution of the 16th instant to the bases agreed to in Washington on the 30th day of April last, by the Representatives of the Governments of Great Britain and the United States, for an arrangement between the Republic of Costa Rica and the State of Nicaragua relative to the question of territorial limits pending between the two countries is approved.

To the Executive Power.

Dated in the Palace of the Supreme Power in San José on the 22nd day of the month of June, 1852.

(Signed)

MIGUEL MORA, *Vice-President.*

B. CARRANZA, *Secretary.*

JOSE MARIA GARCIA, *Secretary.*

Be it therefore carried into effect.

National Palace, San José, 23rd June, 1852.

JUAN RAFAEL MORA,

Minister of State in the Government Department.

JOAQUIM BERNO. CALVO.

I have, therefore, been pleased to approve, confirm, and ratify, as I do by these presents approve, confirm, and ratify, the bases agreed to, consisting of seven Articles, and signed in Washington on the 30th day of April of the present year by Mr. Daniel Webster, Secretary of State of the United States, and by Mr. John F. Crampton, Envoy, &c., of Her Britannic Majesty, the resolution of this Government of the 16th of the present month being also approved, confirmed, and ratified; and by virtue thereof everything shall be complied with and carried out in the Republic of Costa Rica which appertains to it in respect of the above-mentioned bases and the resolution aforesaid.

In testimony whereof I have caused these presents to be issued in triplicate, signed by my hands, sealed with the great seal of the Republic, and countersigned by the Secretary of State in the Department of Foreign Affairs in San José, the 23rd day of June, 1852.

(Signed)

JUAN R. MORA,

Minister of State in the Department of Foreign Affairs.

JOAQUIM BERNO. CALVO.

No. 132.

Mr. Crampton to the Earl of Malmesbury.—(Received August 1.)

(Extract.)

Washington, July 18, 1852.

BY the same post which brought Mr. Walsh's despatch of which a copy is inclosed in my preceding despatch to your Lordship of this day's date, I received a letter from Mr. Wyke, an extract from which I have the honour to inclose.

In regard to the imposition of exorbitant export duties by Nicaragua at Greytown, which Mr. Wyke states the Government of Costa Rica apprehends under the terms of the proposed arrangement, I took an opportunity of speaking to the President of the United States, who entirely agreed with me in opinion that a clause ought to be introduced into the Treaty by which the imposition of export as well as of import duties at Greytown should be precluded. The

intention of the two Governments had clearly been, Mr. Fillmore remarked, that the ports at either end of the proposed Canal should be free ports, both for the transit of goods across the Isthmus, and for the benefit of the countries adjoining the Canal itself. The establishment of export duties at those ports might evidently defeat both these objects.

Inclosure in No. 132.

Consul-General Wyke to Mr. Crampton.

(Extract.)

San José, June 25, 1852.

YOU will, I am sure, be glad to hear that we have succeeded in securing the consent and adhesion of this Government to the proposed arrangement. We had a long conference on the subject with the two Ministers, when we went through all the Articles and discussed them separately, and went into every detail.

The only two things to which they really object are, the being left to settle any future differences with Nicaragua in case the company should require more than their four sections. In such a case they wish that the company should treat directly with them, and pay them an indemnity for any further land they may want. This is reasonable enough.

The other point they object to is, being left at the mercy of Nicaragua with regard to any exorbitant export duties that that State may choose to impose on their produce shipped at Greytown, and they wish Great Britain and the United States to protect them in some way against this possibility. If it could in any way be done by a fresh clause or Article in the Treaty, which has for its object to put everything on a fair basis, it is all they require.

The other objections in the Minister's note of June 16, copy of which I inclose, are merely put forward by way of maintaining what they have always asserted to be their rights.

No. 133.

Mr. Crampton to the Earl of Malmesbury.—(Received August 1.)

(Extract)

Washington, July 18, 1852.

I HAVE the honour to inclose the copy of a letter which I have received from Her Majesty's Vice-Consul at Greytown, giving a satisfactory account of the state of things at that place.

Inclosure in No. 133.

Acting-Consul Foote to Mr. Crampton.

(Extract.)

Greytown, July 3, 1852.

EVERYTHING is going on well here. All seem to be well satisfied and contented with the proceedings of the *de facto* authorities. The taxes and licenses for the support of the police, &c., have been collected without a murmur, and I am happy to say all political discussions have ceased. The flag of Mosquito is hoisted daily by the city police, and guarded as the flag of the Sovereignty under which the municipal authorities exercise their functions.

No. 134.

Consul-General Wyke to the Earl of Malmesbury.—(Received August 2.)

My Lord,

San José, June 25, 1852.

I HAVE the honour to report my arrival in this city on the 8th instant, after a nine days' journey from Greytown. We were five days and nights in an

open boat coming up the River San Juan and Serapiqui, and four days in crossing the mountains on mules, passing through forests and almost uninhabited country. On reaching San José we found that the President had provided a house and servants for our reception, and that everything had been done to make us comfortable after so long and fatiguing a journey.

Mr. Walsh and myself took an early opportunity after our arrival of calling upon the Ministers and of being presented to the President, who expressed the satisfaction he felt, assuring us, as we passed, that our presence here might lead to the final settlement of questions the solution of which was so essential to the well-being and future prosperity of Costa Rica.

On the 10th instant we addressed a joint note to the Minister for Foreign Affairs, containing a copy of the propositions we had to submit to their consideration, at the same time urging the reasons that should induce the Government of Costa Rica to accede to the proposed arrangement.

I herewith transmit a copy of the said note marked No. 1, together with a copy and translation of the Minister's reply No. 2, in which he appoints the afternoon of the 15th of this month for the first conference to be held between the two Ministers of State of this Republic, and Mr. Walsh and myself. On that occasion each separate Article of the proposed Treaty was discussed, and every argument used by us tending to prove the great advantages that must accrue to this State in having her frontiers clearly defined and recognised by Great Britain and the United States, as well as the beneficial influence certain to be hereafter exercised upon her commercial prosperity and internal development by the proximity of the great Interoceanic Canal.

Their principal objections to the plans proposed consisted in the fact of their being (as they asserted) cut off from the future means of exporting their coffee down the Rivers Serapiqui and San Juan from Greytown, as that port once in possession of Nicaragua they feared that exorbitant export duties would be levied on their produce shipped there, from the ill-feeling entertained against them by the Nicaraguans. They also objected to having any future negotiations with the Government of Nicaragua in case the Canal Company requires more than four sections now stipulated for in the Costa Rica territory. Should the Company hereafter really require any such further grants of land than they wish, that application for them should be made by the Company directly to the Government of Costa Rica.

These are the two principal and real objections they entertain to the proposed arrangement; the others they merely put forward by way of maintaining the justice of the claims they have always advanced as their rights, and are as follows: They claim the south bank of the San Juan instead of that of the Colorado river as their north-eastern boundary, and they require that the sections of land to be granted in their territory to the Company shall be limited in extent to three instead of six square miles, and that they shall receive indemnity from the Company for any further grants of land that may be required of them.

Notwithstanding these objections, however, I am happy to be able to inform your Lordship that the Government of this Republic assents, adheres, and subscribes to the basis of the Treaty we have submitted to them, as we are informed, in separate despatches addressed to Mr. Walsh and myself by the Minister of Foreign Affairs bearing date June 16th, copy of which I have now the honour to inclose, marked No. 3. Their objections to the several clauses already mentioned are herein set forth, and we are requested to bring them under the consideration of our respective Governments, stating at the same time their wish that a separate Article should be added to the Treaty, setting forth that the present arrangement is under the special guarantee of the Governments of Great Britain and the United States. I think it advisable in the event of the Canal Company requiring any further grants of land in Costa Rica, that such grants should be applied for directly to the Government of this State, as from the ill-feeling so long existing between Costa Rica and Nicaragua, I believe it to be almost impossible for them to settle amicably any questions upon which a difference of opinion is likely to arise. Inclosure No. 4 is a copy of our reply to the Minister's despatch of the 16th June, and we therein engage to convey to our respective Governments the observations made respecting the changes which the Government of Costa Rica wishes to have made in the definitive Treaty to be concluded at Washington. I have waited up to the last moment for a copy of the Decree of the Legislative Body, ratified by the President, giving the official

sanction to the decision of the Government, but as it has not yet arrived I will send it by next mail.

Having now terminated our business at San José, Mr. Walsh and myself will leave by the first vessel that sails from Punta Arenas for San Juan del Sur, from whence we proceed to Managua, the seat of the Nicaraguan Government.

The President gave us a very handsome ball on the 16th, and the foreign residents gave one last night.

I have, &c.
(Signed) CHARLES LENNOX WYKE.

Inclosure 1 in No. 134.

Messrs. Walsh and Wyke to Señor Calvo, June 10, 1852.

[See Inclosure 2 in No. 131.]

Inclosure 2 in No. 134.

Señor Calvo to Messrs. Walsh and Wyke.

Señores,

Palacio Nacional, San José, 11 de Junio de 1852.

CON nota del 10 del corriente el Infrascrito tuvo el honor de recibir copia de las proposiciones de los Gobiernos de los Estados Unidos y de la Gran Bretaña para un arreglo definitivo sobre las diferencias de limites entre Costa Rica y Nicaragua; y es satisfactorio ál que suscribe poder asegurar á los Señores Walsh y Wyke que el Presidente de la República mira con el mas alto aprecio esta mision, y que deseando entrar en conferencias sobre el importante objecto á que se contrae, ha encargado al efecto el Infrascrito, junto con el Ministro de Hacienda.

Si fuese del agrado de los Señores Walsh y Wyke, dichas conferencias darán principio á la una de la tarde del Martis, 15 del presente mes, en la habitacion de los Señores Comisionados de los Estados Unidos y de la Gran Bretaña.

Esta ocasion ofrece al Infrascrito, &c.

(Firmado) J. B. CALVO.

(Translation.)

Gentlemen,

National Palace, San José, June 11, 1852.

WITH the note of the 10th instant the Undersigned had the honour of receiving a copy of the propositions of the United States and Great Britain, for a definite arrangement of the differences with regard to limits between Costa Rica and Nicaragua, and it is satisfactory to the Undersigned to be able to assure Messrs. Walsh and Wyke that the President of the Republic appreciates this mission in the highest manner, and desiring to enter into conferences upon the important object to which it refers, has charged the Undersigned, conjointly with the Minister of Finance, with that duty. If it be agreeable to Messrs. Walsh and Wyke, the said conferences will begin at 1 o'clock in the afternoon of Tuesday, the 15th of the present month, at the dwelling of the Commissioners of Great Britain and the United States.

This occasion offers to the Minister, &c.

(Signed) J. B. CALVO.

Inclosure 3 in No. 134.

Señor Calvo to Messrs. Walsh and Wyke, June 16, 1852.

[See Inclosure 3 in No. 131.]

Inclosure 4 in No. 134.

Messrs. Walsh and Wyke to Señor Calvo, June 17, 1852.

[See Inclosure 4 in No. 131.]

Inclosure 5 in No. 134.

Decree of the Costa Rica Government.

[See Inclosure 6 in No. 131.]

No. 135.

Consul-General Wyke to the Earl of Malmesbury.—(Received September 2.)

My Lord,

Managua, July 29, 1852.

I HAVE the honour to report that I reached this place on the 26th instant, having been so long detained in Costa Rica in consequence of there being no vessel ready to sail, and I was obliged to give 100 dollars to the Captain of a small schooner to induce him at last to convey me to the port of Realejo in this State.

On my arrival here I was informed by Mr. Kerr, the United States' Chargé d'Affaires, that he had already received a positive refusal from the Nicaraguan Government to accede to the propositions made by the two Governments for the settlement of the differences between this State and the Republic of Costa Rica, and that the only plan they would listen to for a solution of the question was that of leaving it to arbitration.

With the desire of losing as little time as possible, I was presented to the President on the very day of my arrival here. His Excellency received me in the presence of his three Ministers. I assured him that Her Majesty's Government was anxious to cultivate the most friendly relations with his Government, and that I should be much gratified if I could commence those relations by coming to a satisfactory settlement of the important question that now brought me here. I then handed to the Minister for Foreign Affairs, a copy of the proposed Treaty, together with a despatch of my own urging its acceptance, copy of which I have now the honour to inclose. Having expressed a wish to discuss and fully explain the separate Articles of the said Treaty with the Minister for Foreign Affairs, the hour of 3 o'clock on the following day was appointed for that purpose. The President then reciprocated his desire to maintain the best relations with the Government of Great Britain, and I withdrew.

The interview with the Minister took place the day before yesterday, and for upwards of an hour and a-half I advanced every argument that I could think of, to prove to him that it was for the real interests of his Government to accept and accede to the proposed arrangement; but I was constantly met by the one invariable answer, that the sacrifices demanded of Nicaragua were too great for the Government ever to make, and that they were ready to take the consequences, whatever they might be, of refusing to come to the proposed arrangement.

He complained bitterly of the Canal Company; said that his Government regretted ever having granted them a charter, and would now willingly break with the Company altogether, as they wished to conclude a Treaty with Great Britain and offer the undertaking of constructing a canal to an English company. I told him that it was now too late to think of such a thing, as the Canal Company was under the joint protection of the Governments of Great Britain and the United States; that no such plan as that contemplated could be entertained, and that it was useless therefore to think of it. After requesting him to repeat to the President the arguments I had used, and urging him once more to reconsider the whole subject in all its importance, I left him, with the promise that I should receive, with as little delay as possible, the final reply of the Government to my communication of the 26th instant, which, as I have already stated, accompanied the copy of the proposed Treaty which I delivered on the day of my arrival here. That reply I have just received, and from its tenour and the inclosed "modifications" proposed by the Nicaraguan Government, your Lordship will perceive how utterly hopeless it is to expect to arrive at any

settlement of the question with a Government that will not abate one iota of its pretensions.

I have now the honour to inclose a translation of the Minister's letter in answer to mine of the 21st instant, together with its inclosures, not having time to make copies of the original documents, as the post goes out in an hour's time, so as to reach the steamer which leaves Greytown on the 5th of August.

I have also the honour to transmit copy of my reply to the Minister's last communication, which will terminate the correspondence on this subject. Their refusal to come to anything like an arrangement on the terms proposed arises partly from obstinacy and partly from fear; as in the present distracted state of the country, were they to do so, the opposite faction would immediately proclaim them as traitors who had sacrificed the interests of the country to foreign influence, and on that pretext they would probably succeed in making a resolution and driving the present men from power. Mr. Kerr, the American Chargé d'Affaires, having received similar communications from this Government, considers the negotiations as terminated, and will leave this place for Granada to-morrow or the day after, when I shall also take my departure for Realejo, hoping there to find a vessel to convey me to San Salvador on my way to Guatemala. Mr. George Bowen, our Vice-Consul for Nicaragua, accompanied me here at my request, and has been of great use to me from his thorough knowledge of the Spanish language.

I have, &c.

(Signed) CHARLES LENNOX WYKE.

Inclosure 1 in No. 135.

Consul-General Wyke to M. Castellon.

Managua, July 26, 1852.

THE Undersigned has the honour herewith to inclose to the Minister for Foreign Affairs a copy of the propositions made by the Governments of Great Britain and the United States for the settlement of the differences between Nicaragua and Costa Rica.

It is evident that the solution of this question can only be arrived at by mutual concessions for the attainment of a positive good, such as the peaceful settlement of a difficulty which has hitherto given rise to obstacles and ill-feeling between the two neighbouring States, and which, if allowed to continue, would impede the great object alike beneficial to all parties, viz., the construction of the Interoceanic Canal.

It is only after the most mature deliberation, and a thorough and cordial understanding on the great importance of the subject, that the Governments of Great Britain and the United States have determined on these propositions as the best calculated to conciliate the contending interests of both parties, and at the same time equitably to terminate a state of things so likely to retard the future progress and prosperity of both Nicaragua and Costa Rica; and they trust, therefore, that the said propositions will be received in the spirit of goodwill in which they are offered.

In the present state of Central America, taking into consideration the existing relations between the neighbouring States, as well as the great tide of emigration flowing through this country on its way to California, it becomes a matter of vital importance for Nicaragua, not only to have her boundaries clearly defined, but also recognized and guaranteed by the Governments of Great Britain and the United States, as her political existence will thereby be firmly secured against the many risks and eventualities which might at any moment arise as long as things remain in their present unsettled state. The immense importance of possessing Greytown, the entrance to a canal through which the future commerce of the world will pass, need not be dwelt on, and fully counterbalances the renunciation of the disputed province of Guanacaste, which has now been so long in the possession of Costa Rica.

That compensation should be given to the Mosquito Indians for the port of Greytown is but fair and just, and a point which the Government of Her Britannic Majesty requires as a *sine quâ non*, for reasons too obvious and too frequently advanced now to need repetition.

The neighbouring Republic of Costa Rica, having made sacrifices on her part to accede to the terms now offered, the Undersigned feels convinced that

Nicaragua will not be backward in lending a hand to the good work, and thus aid in terminating a state of affairs alike prejudicial to the true interests of all parties.

It would be peculiarly gratifying to him, were he to commence his relations with the Nicaraguan Government by coming to a cordial and complete understanding with it on a subject not only vital to the real interests of this State, but also to the future commercial prosperity of all nations, by smoothing the difficulties in the way of the construction of a great Interoceanic Canal, a work so vast and important in its results as to confer honour and credit on all those engaged in its completion.

As it is of the greatest importance that the Undersigned should be made acquainted with the views of the Nicaraguan Government on this subject with as little delay as possible, as well as that he may have an opportunity of discussing in detail the Articles of the proposed Treaty with the Minister for Foreign Affairs, he requests that high functionary to name as early an appointment for that purpose as will suit his convenience.

I have, &c.

(Signed)

CHARLES LENNOX WYKE.

Inclosure 2 in No. 135.

M. Castellon to Consul-General Wyke.

(Translation.)

Sir,

Managua, July 29, 1852.

I HAVE informed my Government of your very courteous communication, dated the 26th instant, with which you were pleased to send a copy of the bases which the Governments of Great Britain and the United States propose to Costa Rica and Nicaragua for the amicable arrangement of the difficulties which exist between those two countries in regard to territorial limits.

The Chargé d'Affaires of the American Union had already submitted this important matter to the consideration of my Government, which, in conformity with the Decree of the Legislative Chambers, copy of which I have the honour to inclose to you, was pleased to direct me to reply to that gentleman in the terms contained in the aforesaid copy, which I also transmit. In it you will see that, if the Government of Nicaragua has not acceded to the bases proposed for an arrangement with that of Costa Rica, it is nevertheless disposed to terminate, by an impartial arbitration, all the questions which actually exist between the two States—a measure the adoption of which presents no inconveniences, since it is one of those which are generally and usually employed to reconcile differences between nations; so that the mere compliance with that measure fully proves the desire of my Government not to prolong a state of things which may retard the future prosperity and progress which is reserved for these two countries, because arbitration, as well as compromise, harmonises particularly with those cases in which the pretensions of the contending parties present matter of doubt, whilst Nicaragua believes with the utmost good faith that its rights are clear, certain, and incontestable, such as any other Power whatsoever might vindicate and defend to the last without the slightest compromise.

My Government is persuaded that yours will find, as well in the form as in the substance of these two documents, that the dignity of Nicaragua has gone hand in hand with its justice and good faith; and with this conviction it has deemed it proper to authorise its Minister in Washington to arrange this business in a manner which, by conciliating the interests of Nicaragua and Costa Rica, may remove all obstacles to the great work of peace and the construction of the Interoceanic Canal—an object that has not, and never will be, lost sight of by my Government.

This Government feels a lively regret that the intervention of the two high Powers who propose the bases in question has not been as efficacious as could be desired. Perhaps the results would have been more fortunate if the Governments of the American Union and Great Britain had authorised you and the Honourable Mr. Kerr to mediate in their names, and preside over the Conferences which might have taken place between Nicaragua and Costa Rica by means of Ministers Plenipotentiary commissioned for that purpose; in that case

the Representatives of those two Great Powers, having listened to the contending parties, might perhaps have discovered some easier mode of adjustment without further delay.

If you were to be invested with the full powers required, it would be very agreeable to my Government to treat with you upon so interesting a subject, and to share with you, in addition to its earnest desire for the happy conclusion of these questions, the satisfaction of cooperating, with the goodwill of Great Britain and the United States, to secure to these inestimable sections of Central America the ineffable blessings of peace, and to the whole world the benefits of an interoceanic communication over the Isthmus of Nicaragua.

My Government, nevertheless, being desirous of manifesting more and more its good dispositions in this respect, has directed me to transmit to you the modifications which, in its judgment, might be made of the aforesaid bases, in order that you may communicate them, if you think proper, to your august Sovereign for her consideration.

These modifications have also been communicated to the Chargé d'Affaires of the United States, with the request that he would forward them to his Government, in the hope that they would meet with a favourable reception, and, in such event, M. Marcoleta, Minister Plenipotentiary in Washington for Nicaragua, is authorised to confer, in regard to these same modifications, with the American Cabinet.

As to the rest, my Government, as well as myself individually, will take a singular pleasure in tendering, upon all occasions, to Mr. Wyke, every attention due to his merits and worth; and I can now assure you, that the interest which you have evinced for the happiness and welfare of Nicaragua, is a circumstance which will inspire us with the greatest desire to cultivate your goodwill.

I have, &c.

(Signed) FRANCO. CASTELLON.

Inclosure 3 in No. 135.

Decree.

(Translation.)

The Director of the State of Nicaragua to his citizens.

BY the present the Legislative Assembly have decreed the following. The Senate and Chambers of the State of Nicaragua in Congress assembled—

Decree :

ART. I. The State of Nicaragua refuses to accept the proposed Convention or basis agreed upon severally, 30th April last, between his Excellency Daniel Webster, Secretary of State, and his Excellency John F. Crampton, Minister Plenipotentiary of Her Britannic Majesty in Washington, respecting an arrangement of territorial limits between Nicaragua, Costa Rica, and Mosquito.

II. The Government of Nicaragua would desire that the before-mentioned subjects, with reference to the above bases, should be heard before an impartial arbitration.

III. The State of Nicaragua most solemnly protests against all foreign interference in the affairs of their administration, and against any force which might be employed to compel them to act against their own free-will.

Given in the Hall of the Assembly of Representation, Managua, July 14, 1852.

(Signed)

AUGUSTIN AVILEZ, *R. P.*

S. JOAQUIM CUADIA, *R. S.*

S. MANANO BOLANOS, *R. S.*

Poder Ejecutivo.

Senate Hall, Santiago de Managua, July 19, 1852.

MIGUEL R. MORALE, *S. P.*

J. GUERRA, *S. S.*

JOSE DE J. ROBERTO, *S. S.*

Approved of—

Managua, July 19, 1852.

J. LAUREANA PINEDA.

To the Minister of Foreign Affairs.

Approved—

Managua, July 29, 1852.

(Signed)

CASTELLON.

Inclosure 4 in No. 135.

M. Castellon to Mr. Kerr.

(Translation.)

Sir,

Managua, July 20, 1852.

AS I informed you in my despatch of 26th June last, my Government have examined the bases as stipulated between the Secretary of State to the American Union and Her Britannic Majesty's Minister Plenipotentiary in Washington on the 30th April last, for the purpose of settling the boundary question between Nicaragua, Costa Rica, and Mosquito.

My Government are fully aware of the rights and importance of this affair, and not being possessed with the full powers requisite for deciding upon subjects so important as those contained in the bases, found itself under the necessity of submitting it for the consideration of the Legislative Assembly, in order that they might report upon the same. In virtue of which the Camaras have given the subject their attention, and acting in the best faith, not only with regard to the justice of the cause of Nicaragua, whose rights they consider most sensibly affected, but also the illustration and moderation of principles of the Government of Great Britain and the United States, and the guarantee secured us in our international rights, in favour of all the States, have taken it upon themselves to refuse acceptance of the before-mentioned bases, declaring, in the name of Nicaragua, its disposition to decide, by means of an impartial arbitration, the questions which may arise as contained in that Treaty. In consequence of this, please refer to the Decree which, in a former despatch, I had the honour to inclose you.

My Government, however, in conformity with said Decree, has desired me to say that, notwithstanding the deference which it is inclined to observe towards the Government of the United States and Great Britain, in every way in which it may be consistent with the honour and dignity of the State, it finds itself under the painful necessity of being obliged to refuse the proposed bases, without however depreciating your friendly offices and the sentiments which you have expressed in the name of Great Britain and the United States in sending to them propositions which, with the character of recommendations, have been submitted to the consideration of Nicaragua and Costa Rica. You will find in this declaration, that if my Government has not acceded to the basis of a settlement which had been addressed to it, it is not the less on that account disposed to cultivate with the Governments of the American Union and Great Britain the relations of friendship and good understanding happily established, such as belong to peace and general welfare. Would that on the part of those Governments similar feelings were entertained, and that, appreciating at their just value the sentiments of the Government of Nicaragua, they may devote their friendly interference to the reasonable measure of impartial arbitration proposed by Nicaragua, to be adopted by Costa Rica and Great Britain to terminate harmoniously the territorial questions which now occupy us. As regards the stipulations between Great Britain and the United States in relation to the affairs of the Atlantic and Pacific Company and the Accessory Transit Company in Articles 4, 5, 6, 7, of the aforesaid basis, my Government protests that it will not accede as it now has not acceded to any arrangements which in any way may alter the conditions of the previous contracts of 22nd September, 1849, the modifications of 11th April, 1850, and the Convention of 19th August, 1851, which in any event will be the invariable rule of its conduct; nor will it accede to any other arrangements which directly or indirectly may injure the rights of Nicaragua either in its ports, rivers, or lakes, or in the Canal and its dependencies, or in any other part of its territory, whose integrity it desires to preserve, whether such arrangements be made between the two aforesaid Governments of the American Union and Great Britain or with any other Power, as long as a Minister Plenipotentiary for this State does not concur in them, and as what may be done by said Minister is not ratified by the Legislative Power.

With this exposition, which I hope you will be good enough to bring to the high knowledge of your Government, as I request you to do, I reply by order of mine to your esteemed and courteous communications dated 23rd of last June and 13th of the present month.

I have, &c.

(Signed)

CASTELLON.

Inclosure 5 in No. 135.

Modifications of Proposed Territorial Treaty.

(Translation.)

Modifications by which the basis established in Washington, the 30th April last, for the settlement of territorial limits, may be rendered acceptable to Nicaragua.

ART. 1. THE Mosquito Indians, and the territory of that name, remain for ever incorporated and united with that of Nicaragua, enjoying the same rights, and being subject to the same duties, as the other inhabitants of the State, according to the terms of the fundamental charter. The said territory will be considered a Department of the State, and as such will send its respective Representatives and Senators to the Legislative Chambers, in the form and upon the basis which may be determined on by a particular law. In consequence, the trade between that territory and the other parts of the State will be entirely free and untrammelled, as also in its ports, rivers, and lakes, and in its respective sections for the navigation in transit of vessels and vehicles, which shall enjoy perfect security.

II. Nicaragua, nevertheless, engages, 1st, to grant as indemnity for the building and improvements made in the ports of San Juan to the Mosquito Indians, 4 per cent. of the net profits of said ports, for the term of five years, which sum will be paid annually to the Municipality which may be there established, to be dedicated to objects of common benefit to those inhabitants; 2nd, to assign an equitable pension to the caique or chief of the Mosquitos: 3rd, to recognize and respect as legitimate the grants of lands which, from the 1st January, 1848, to the present time, may have been made by the authorities of the Mosquito territory, except such grants as may be exposed to those previously made by the Spanish Government, by the Federal Government of Central America, or by that of Nicaragua, or which may be contrary to the privileges of the Companies of the Atlantic and Pacific and Accessory Transit, or such other grants as may be in those places which the State requires for forts, arsenals, or other public edifices, which points are to remain at the disposal of the said State.

III. The port for the future shall be called San Juan de Nicaragua, and the public municipal authority will be exercised in the name of the State, the same as in all the rest of the territory incorporated with it, by virtue of the present Treaty.

IV. The limits of the territory of Nicaragua on the side of Costa Rica, will be those which were anciently comprised in the Province of Nicaragua from the River Salto, in the Pacific, by a line drawn diagonally to the River Parismina, in the Atlantic: both States, within one year after the ratification of this Treaty, will name a Commissioner and a Surveyor, in order that a survey of the ground may be made, and a demarcation of limits accomplished in conformity with this stipulation. Those Commissioners will make the necessary observations for the preparation of a map of the frontier line, which will be considered an integral part of this Treaty, and will have the same force as if inserted in it; each party being furnished with copies, which may be signed by both, in case any dispute may arise from any infraction; in which event, as well as in any other, they will be deemed authentic, and regarded as full proof; and in order that this operation may not present the slightest difficulty, the aforesaid Commissioners will agree upon names for rivers and mountains which have them not, will designate them upon the map with all exactness, and will raise at proper points the land-marks which may be necessary. It is stipulated that the navigation of the whole course of the rivers which may be found within the limits of Nicaragua, as well as that of the lake or lakes, and navigable waters, will be entirely free and common for the subjects of both States, without any restriction; it being well understood that the inhabitants of Costa Rica will be subjected, as well as those of Nicaragua, to the single limitation established in Article XXIII of the Contract with Mr. White, 22nd September, 1849, and that they will be obliged to comply with all the regulations relative to navigation and other laws of the State. The State of Costa Rica will, moreover, enjoy,

1st, entire freedom of duties of importation for the term of ten years, in the port of San Juan del Norte ; 2nd, an absolute exemption for ever from duties of exportation, upon its productions and manufactures, &c. ; 3rd, the same freedom for ever of the navigation of the Serapiqui river, with the obligation of executing at its expense the necessary works to make it navigable, and to preserve it in the condition in which it may be placed by the execution of the said works ; 4th, to establish in that part of the river confluent with the San Juan, or at any other convenient point, buildings for custom-houses, shops or stores, and guard-houses ; 5th, the privileges for its subjects of having in San Juan stores for the deposit of merchandize, which they may import for the interior of its territory for the term of fifteen years. All these points will be arranged by a particular Convention.

V. The State of Nicaragua, for the purpose of facilitating the execution of the great Interoceanic Canal, engages not to construct, or permit to be constructed, any wharf, wall, or any other work which may embarrass the labour of the canal, or the navigation, or entrance of the ports, rivers and lakes, where that enterprise is to be carried on ; it being understood that the exclusive right granted to the Accessory Transit Company, and the authority given to it by Article I of the Convention, 19th August, 1851, shall not exceed those limits and objects designated in Article XXX of the previous Contract of 22nd September, 1849, which is to promote the prompt execution of the Canal, and for the event of its being impracticable, as has been declared to the Company, which must strictly comply with said Article XXX, in conformity with Article IX of the aforesaid Convention of 19th August, 1851.

VI. In case of the full or partial accomplishment of the projected interoceanic communication, the flags of Great Britain and the United States, and the merchandize and subjects of both Powers, will enjoy on the transit the same advantages and exemptions which are granted to the flag, merchandize, and subjects of the most favoured nations. Nicaragua will arrange these points by Treaties of Friendship, Alliance, and Commerce, which she is disposed to make with the two High Contracting Powers ; they engage on their part to unite their efforts with those of Nicaragua, to guarantee the neutrality of this important route, for the purpose of protecting the sovereignty of the State, and its free passage, and to secure the capital invested in the work ; which guarantee is conditional, and may be withdrawn by a previous renunciation to the Government of Nicaragua in cases expressly designated in Article V of the Convention celebrated at Washington by the Ministers of Great Britain and the American Union ; and for the purpose of establishing the distance within which the vessels of any nation may remain exempt from blockade, detention, or capture by either of the belligerent parties, it is declared that it shall be extended to all the waters comprised within the distance of thirty nautical miles from low-water mark at the two extremities of the Canal.

VII. It being desirable that no time should be lost in constructing said Canal, the Governments of the United States, Great Britain and Nicaragua agree, that if the Company possessing the privilege of executing this enterprise should not have a sufficient capital subscribed, or should not, from the existence of insuperable obstacles, for the execution of that work, or for the construction of a railroad, then there will be no obligation on the part of Nicaragua to maintain said contract ; and the Company will lose the privilege whenever any other company which may be able to construct the Canal shall request it. The Government of Nicaragua, after consultation with those of the United States and Great Britain, will grant the privilege with the stipulation and conditions best calculated for the accomplishment of so magnificent an object.

VIII. The Accessory Transit Company will enjoy the same protection which is conceded by the Convention of 19th April, 1850, and by the present one to the Atlantic and Pacific Canal Company ; it being always limited, as has been stated, to the objects of promoting and facilitating the execution of the Canal in the terms stipulated in Article XXX of the previous Contract of 22nd September, 1849, which will be inviolably observed ; with reference to Article IX of the Convention of 19th August, 1851, it being understood that any other of the Articles of said Convention which may alter it, shall be considered null, and without value in effect, and that the authority granted to the Company in virtue of Article VIII will cease.

IX. The present Convention will be ratified by both the Contracting Parties,

and exchanged in Washington within six months, counting from the present date.

Managua, July 29, 1852.

(Signed)

CASTELLON.

Inclosure 6 in No. 135.

Consul-General Wyke to M. Castellon.

Managua, State of Nicaragua, July 29, 1852.

THE Undersigned has the honour to acknowledge the receipt of a despatch bearing this day's date from the Minister for Foreign Affairs, together with its inclosures, and certain modifications proposed by the Nicaraguan Government to the Articles of the Treaty submitted to their consideration by the Government of Great Britain and the United States.

In compliance with the wish of the Minister for Foreign Affairs, the Undersigned will forward the said modifications to his Government, but he regrets that he cannot hold out the slightest hope of their being entertained, as they are totally at variance with the spirit of the proposed arrangement for settling the differences between this State and the Republic of Costa Rica.

In acknowledging the friendly sentiments expressed towards himself in this correspondence, the Undersigned cannot but lament that his first negotiations with the Government should have failed in inducing it to accede to the propositions made by Her Majesty's Government, and the more so as the proposed settlement of the question was so well calculated to ensure the future prosperity and well-being of the State of Nicaragua.

(Signed)

CHARLES LENNOX WYKE.

No. 136.

Mr. Crampton to the Earl of Malmesbury.—(Received September 5.)

(Extract.)

Washington, August 23, 1852.

YOUR Lordship will have been apprised by Mr. Wyke's despatch of July 29, which was received at this Legation under flying-seal, that the Government of Nicaragua has peremptorily rejected the terms of accommodation proposed to them by Her Majesty's Government and the Government of the United States for the arrangement of the question between Nicaragua and Her Majesty's Government as regards Greytown and Mosquito, and between Nicaragua and Costa Rica as regards the Province of Guanacaste and the navigation of the St. John's river.

The modifications or counter-propositions of the Nicaraguan Government communicated to Mr. Wyke appearing to be inadmissible, I thought it right, in conformity with the suggestions contained in your Lordship's despatch of the 16th of July, to inform Mr. Webster that I had every reason to believe that Her Majesty's Government would consider the proposed negotiation with Nicaragua as broken off, and that being already in possession of the general views of Her Majesty's Government in the event of such a rupture of the negotiation, I was prepared to confer with him as to the best means of proceeding to bring the matter, so far at least as it regarded the interests of Her Majesty's Government and those of the Government of the United States, to a satisfactory conclusion.

Mr. Webster informed me in reply that he was on his part equally anxious to come to a definitive arrangement of this question, and that he was ready, now that Nicaragua had, in a manner so unreasonable, declined to be a party to an arrangement so well calculated to secure her interests, to settle the matter without further reference to her, and with a sole view to the objects of the British and American Governments in regard to the great undertaking in which they both felt so deep an interest.

I then, at his request, stated to him generally the views of Her Majesty's Government as to the means which appear to be best suited and most practicable

for securing to Greytown such a definite position as would be satisfactory to both Governments, and at the same time contribute to the success of the projected Inter-oceanic Canal across the Isthmus.

Mr. Webster stated that he would take the subject into serious consideration, and shortly renew his conference with me in regard to it.

No. 137.

Mr. Crampton to the Earl of Malmesbury. — (Received November 17.)

My Lord,

Washington, November 1, 1852.

I HAVE the honour, at the request of M. de Marcoleta, the Minister from Nicaragua, to inclose to your Lordship a communication which he has addressed to me on the subject of the Inter-oceanic Canal.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure in No. 137.

M. Marcoleta to Mr. Crampton.

M. le Ministre,

New York, le 27 Octobre, 1852.

LA Légation de Nicaragua vient d'apprendre que la Compagnie Américaine du Canal siégeant à New York se trouvant dans l'impossibilité d'effectuer, faute de concurrence des capitalistes de la Grande Bretagne, cette importante voie de communication interocéanique, a résolu de proposer au Gouvernement de Nicaragua une modification au contrat primitif pour construire un Canal de moindres dimensions que celles stipulées dans l'Article II du dit contrat.

La concession primitive assurait au commerce du monde le passage, par le Canal, des navires de haut bord, et elle intéressait, par conséquent, toutes les nations maritimes et tous les Gouvernements, principalement de l'Europe, qui, à l'exemple de la Grande Bretagne et des Etats Unis de l'Amérique du Nord, étaient disposés à garantir la neutralité et à accorder leur protection spéciale à cette voie immense de communication entre l'Océan et la Mer Pacifique.

Un Canal de moindres dimensions ne permettant le passage qu'aux navires d'une certaine capacité excluerait nécessairement ceux de haut bord, et pourrait peut-être monopoliser, pour ainsi dire, le commerce et le passage d'une mer à l'autre en faveur des navires et du commerce des nations les plus rapprochées des côtes et des ports de l'Amérique Centrale, et principalement de Nicaragua, soit du côté de l'Océan, soit du côté de la Mer Pacifique.

Le Gouvernement de Nicaragua, hautement préoccupé de cette idée et désirant, au même temps, agir sur ce rapport en parfaite harmonie et bonne foi envers les Grandes Puissances maritimes, s'empresse de porter à leur connaissance les intentions de la Compagnie Américaine du Canal de Nicaragua, à l'effet de savoir si elles seront disposées à accorder leur protection et garantir la neutralité d'un Canal ne permettant le passage qu'aux navires d'une certaine dimension, ainsi qu'elles étaient disposées à le faire relativement au Canal primitif, c'est-à-dire, en faveur d'un Canal à grandes dimensions.

Le Soussigné vient en conséquence prier Mr. Crampton de vouloir bien soumettre à son Gouvernement, avec réserve, le contenu de cette dépêche et d'en demander une réponse dans le plus bref délai possible.

Le Soussigné, &c.

(Signé)

J. DE MARCOLETA.

(Translation.)

M. le Ministre,

New York, October 27, 1852.

THE Legation of Nicaragua has just learned that the American Canal Company of New York, finding it impossible to execute the important line of inter-oceanic communication on account of the want of cooperation of the capitalists of Great Britain, has resolved to propose to the Government of Nicaragua a modification of the original contract for constructing a canal of

smaller dimensions than those stipulated in the second Article of the above-named contract.

The original arrangement secured for the commerce of the world the navigation of the Canal for ships of large dimensions, and it accordingly interested all maritime nations and all Governments, especially those of Europe, which were disposed to imitate the example of Great Britain and of the United States of America, and to guarantee the neutrality of and to accord their special protection to that immense line of communication between the Atlantic and the Pacific Oceans.

A canal of smaller dimensions, only affording passage to vessels of a certain class, would necessarily exclude those of a larger size, and thus perhaps monopolize, so to speak, the commerce and the navigation from one ocean to the other in favour of the ships and commerce of the nations lying nearest to the coasts and ports of Central America, and chiefly those of Nicaragua, either on the Atlantic or on the Pacific side.

The Government of Nicaragua being much taken up with this idea, and desirous at the same time of acting in this respect with perfect harmony and good faith towards the great maritime Powers, loses no time in bringing to their notice the intentions of the American Nicaraguan Canal Company, with the view of ascertaining if they will be disposed to grant their protection to and to guarantee the neutrality of a canal which can only be navigated by vessels of a certain size, in the same manner as they were disposed to do with regard to the original canal, that is to say, in favour of a canal of large dimensions.

The Undersigned accordingly requests Mr. Crampton to be good enough to submit to his Government, confidentially, the contents of this despatch, and to ask for an answer with as little delay as possible.

The Undersigned, &c.

(Signed)

J. DE MARCOLETA.

No. 138.

Mr. Crampton to the Earl of Malmesbury.—(Received December 7.)

(Extract.)

Washington, November 21, 1852.

IF I am rightly informed, the true motive of the Nicaraguan Government in their peremptory rejection of the terms of accommodation submitted to them by Her Majesty's Government and the Government of the United States in the project of Convention signed by Mr. Webster and myself on the 30th of April last, is to be looked for in the extension of the term which it was therein proposed to allow to the Company for the fulfilment of their engagements, and in general in the confirmation which it contained of their privileges under the charter.

No. 139.

Lord John Russell to Mr. Crampton.

Sir,

Foreign Office, January 13, 1853.

HER Majesty's Government have had under their consideration your despatch of the 1st of November last, inclosing a copy of a letter which you had received from M. Marcoleta, the Nicaraguan Envoy at Washington, in which he states that the American Company which was formed for the purpose of constructing an Interoceanic Ship-Canal across the Isthmus of Nicaragua having found it impossible to carry out the plan as originally contemplated, had resolved to propose to the Government of Nicaragua a modification of that plan, with the view of constructing a canal of smaller dimensions than those specified in their contract. And M. Marcoleta therefore asks whether the maritime Powers would be disposed to protect and guarantee the neutrality of a canal of this description in the same manner as they were disposed to do with regard to the Ship-Canal originally contracted for.

I have to state to you that Her Majesty's Government are of opinion that before any further steps can properly be taken in this matter, it must first be ascertained whether the assertion respecting the incompetency of the American

Company to carry out the original plan of the Ship-Canal is correct : and if it is correct, we must then ascertain with accuracy what the present intentions of the Company are, and what, precisely, are the proposals which they have made to the Nicaraguan Government.

It would also be desirable to discover what are the sentiments of the United States' Government with regard to the proceedings of the Company under this materially altered aspect of affairs.

If the Company should prove unable to fulfil the engagements contracted by them with the Government of Nicaragua for the construction of a Ship-Canal, Her Majesty's Government would of course feel themselves at liberty, under the VIIth Article of the Treaty of Washington of the 19th of April, 1850, to withdraw their protection from that Company, and to transfer it to any other Company which should undertake to construct such a canal.

I have therefore to instruct you to inquire carefully into this matter ; and if M. Marcoleta's statement should prove correct, you will express to the United States' Secretary of State the deep regret with which Her Majesty's Government have learned the failure of the great project for the effectual execution of which the Convention of 1850 between Great Britain and the United States was mainly entered into ; and you will observe to the United States' Government that Her Majesty's Government could not undertake to guarantee the neutrality of any Interoceanic Canal across the Isthmus of Nicaragua which, in its character and dimensions, failed to answer to the essential designation of Ship-Canal employed in the Convention of 1850.

In making this communication, you will be especially careful to employ such a tone and such expressions as shall clearly show to the United States' Government how much in earnest we were in desiring the speedy and effectual construction of a great Interoceanic Canal by the line of the St. John which should open a line of communication across the Isthmus to the trade of the whole world in ships of large burthen, and how deeply we should regret to see so splendid a conception dwindle down to the narrow compass of an ordinary transit route for mere coasting-vessels, which, to distant nations, would be almost destitute of value.

I am, &c.
(Signed) J. RUSSELL.

No. 140.

Mr. Crampton to the Earl of Malmesbury.—(Received January 17.)

(Extract.)

Washington, January 2, 1853.

I HAVE the honour to inclose the copy of a Resolution offered in the United States' Senate on the 28th ultimo by Mr. Cass, that the President be requested to communicate to the Senate any information of which he may be in possession respecting the establishment of a new British Colony in Central America, together with a copy of a proclamation of the Superintendent of Belize, dated July 1852, by which the Island of Ruatan and others therein named are constituted into a colony, under the name of the "Bay Islands." The Resolution also proposes to inquire what means, if any, have been taken by the Executive to prevent the violation of that Article of the Treaty signed at Washington on the 19th of April (ratified July the 4th), 1850, between the United States and Great Britain, which provides that neither party shall occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America.

Inclosure in No. 140.

Extract from the "Washington National Intelligencer" of December 29, 1852.

BRITISH COLONY IN CENTRAL AMERICA.—Mr. Cass submitted the following resolution for consideration :

Resolved,—That the President be requested to communicate to the Senate,

as far as may be compatible with the public interest, any information in the Department of State respecting the establishment of a new British colony in Central America; together with the copy of a proclamation, if received at the said Department, issued by the British authorities at the Belize, July 17, 1852, announcing that "Her Most Gracious Majesty our Queen has been pleased to constitute and make the Islands of Ruatan, Bonacca, Utilla, Barbarat, Helma, and Morat to be a colony, to be known and designated as the Colony of the Bay Islands," and signed "By command of Her Majesty's Superintendent, Augustus Fred. Gore, Colonial Secretary." And also what measures, if any, have been taken by the Executive to prevent the violation of that Article of the Treaty of Washington of July 4, 1850, between the United States and Great Britain, which provides that neither party shall "occupy, or fortify, or colonize, or assume dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America."

No. 141.

Lord John Russell to Mr. Crampton.

Sir,

Foreign Office, January 19, 1853.

IN treating of the affairs of Mosquito, I must in the first place refer you to a despatch of Lord Malmesbury of the 16th of July, 1852, upon this subject.

It is evident that since Great Britain first assumed the protection and defence of the Mosquito Indians, the position of all parties has changed.

1st. Spain, instead of exercising absolute sovereignty over Central America and prohibiting all commerce on the coasts under her sway, has entirely lost her dominion over the continent from Cape Horn to Florida.

2nd. The Mosquito Indians, instead of governing their own tribe according to their own customs, furnish a name and a title to Europeans and Americans, who carry on trade at Greytown and along the coast of Mosquito, according to the usages of civilised nations.

3rd. Great Britain, instead of having an interest in the defence of the Mosquito Indians for the sake of rescuing part of the territory of Central America from Spanish control, and obtaining an outlet for her commerce, has no other interest in Mosquito than that which is derived from an honourable regard for her old connection with the Indian nation of Mosquito.

Her Majesty's Government has for several years endeavoured to suit its engagements to the altered circumstances of the case. But every proposal that has been made with this view has encountered some insuperable obstacle. The contentions in Central America between Nicaragua, Costa Rica, and Honduras; the absence of any authority with which any permanent agreement could be made; unfounded jealousies of Great Britain; and various other circumstances, have prevented a settlement of this vexatious question.

In conformity with the opinions stated in Lord Malmesbury's despatch of July 16, to which I have already referred you, I have to state that the Committee of Government of Greytown are in fact the real power which exercises authority in that part of Central America. To Her Majesty's Government it would be a matter of indifference whether that authority was exercised in the name of the King of Mosquito or in the name of Greytown itself; but it is desirable that what is apparent should be made to conform, as far as possible, to what is real. What is apparent is, that the King of Mosquito exercises sovereignty over Greytown; what is real is, that he has no authority whatever, but that a Committee of Europeans and Americans carry on the Government at that port.

What Her Majesty's Government therefore would consider a good and final arrangement, would be—

1. That Greytown should be a free and independent port, connected with Mosquito by such relations of friendship and alliances as may be agreed upon.

2. That indemnification, or advantages equivalent to those laid down in the project of Convention of the 30th of April, 1852, shall be assured to Mosquito in return for its withdrawal from its present position in regard to Greytown.

3. That Great Britain and the United States, without guaranteeing Grey-

town, should be ready to act in concert to defend the independence of the free city or port of Greytown, from whatever quarter it might be attacked.

What is essential and of immediate importance is, that the authorities of Greytown should be ready to assume either unqualified independence, with an engagement to defend Mosquito, or a qualified independence owing allegiance and support to Mosquito.

For this purpose some person qualified to treat should proceed at once to Greytown; whether a naval officer of Her Majesty or a civilian would be the fittest person to be intrusted with this mission. I must leave to you to decide.

It would be desirable, if the Government of the United States should concur in these views, that a new Convention in the place of the unaccepted project of Agreement of April 1852, should be proposed and concluded; and that a person similarly qualified should be sent by that Government at the same time and for the same object.

I have only further to say that the indemnity to Mosquito might possibly not be made in money, but in greater security for a certain fixed territory within which the free port of Greytown, assisted by Her Majesty's ships of war, might engage to defend the Mosquito nation.

The Governor-General of Canada, and the authorities of Her Majesty in other of Her Majesty's North American Possessions, have made from time to time agreements somewhat similar. The President of the United States has frequently made Conventions with Indians to the like effect.

The peculiarity of this case is that certain neighbouring States deny altogether the independence of Mosquito: and the Mosquito nation are liable every day to new incursions upon their territory. We can make no complete provision against this danger. Our policy is to do all that honour and humanity require in behalf of the Mosquito nation, but we intend to adhere strictly to the Treaty of Washington of the 19th of April, 1850, and not to assume any sovereignty, direct or indirect, in Central America.

I am, &c.

(Signed) J. RUSSELL.

No. 142.

Lord John Russell to Mr. Crampton.

Sir,

Foreign Office, January 19, 1853.

BY my other despatch of this day's date, you will see that it is the object of Her Majesty's Government to make Mosquito a reality instead of a fiction, which it has hitherto been; and, provided we save our honour and credit in our treatment of the King of that country, whose title and power are, in truth, little more than nominal, it is a matter of comparative indifference to us how this object is carried out, whether by constituting Greytown as the head and pivot of the new territorial establishment which we desire to see formed, or by any other liberal and practical arrangement which may be thought preferable, on discussing the matter with the United States.

Her Majesty's Government consider that so large and fertile a country as the extensive region denominated the Mosquito territory, a region extending from the River Roman on the north to the River San Juan de Nicaragua on the south, and whose western boundary is also of vast, though undefined extent, ought no longer to be allowed to lie waste, with 30,000 or 40,000 wandering Indians forming its only native population, and a few hundred foreigners of various races located, for the purposes of commerce, at different points along its extended line of sea-coast. Neither would it consist with our notions of expediency, that such States as Nicaragua, Honduras, or even Costa Rica, should obtain possession of the Mosquito territory.

These petty States are but little advanced in the arts of civilised life; have little appreciation of the high value of commercial intercourse as the great medium of civilisation and freedom, as well as of national and individual wealth; have but rude notions of the paramount importance of impartial administration of justice; and afford, by their proceedings since they attained to independence, but little proof of their power of self-government, or even of that of preserving peace with each other.

While Greytown was virtually a possession, and Mosquito a dependency, of Great Britain; it was not unnatural that the United States should have looked upon such a state of things with jealousy and aversion, and should have thrown their weight into the scale of Nicaragua, which contested with Great Britain the right both to Greytown and to Mosquito. But those circumstances exist no longer. The Treaty of April 1850 has entirely changed the future, if not the present, position of Great Britain with respect to Greytown and to Mosquito, and, indeed, to the whole of Central America; and the great question now to be solved is, how to turn the Mosquito country to the best account, not merely for the benefit of Great Britain or of the United States, but for the benefit of the whole world.

It will be advisable that you should, without the least reserve, explain these views to Mr. Everett and to the President; and that you should at the same time state clearly to them, that it appears to Her Majesty's Government that the greatest advantage cannot fail to result to the general cause of civilisation in Central America, from the maintenance of a perfect understanding and union between Great Britain and the United States.

The President of the United States will readily understand that it is indispensable for the honour of Great Britain, that the King or Chief of Mosquito, his family and his people, should be liberally and permanently provided for. This object could not be accomplished either by a cession of his territory to one of the South American States, or by leaving him the prey of adventurers, who use his name and authority for the purpose of stripping him of his land.

But, provided this essential point be secured by such means as may be agreed upon, Her Majesty's Government will have no objection to enter into arrangements, either by Convention or otherwise with the United States, both for insuring the more rapid settlement and colonization of the territory in question, and for establishing its future administration. Once established, the new State will be independent both of Great Britain and the United States. In no very long time it will probably have the means to defend itself without assistance from either Power.

You may read this despatch to Mr. Everett; and if he wishes to communicate it to the President, you may give him a copy of it.

I am, &c.

(Signed) J. RUSSELL.

No. 143.

Mr. Crampton to the Earl of Malmesbury.—(Received January 27.)

(Extract.)

Washington, January 10, 1853.

I HAD the honour to inclose to your Lordship in my despatch of the 2nd instant, the copy of a resolution offered in the Senate of the United States by General Cass respecting the establishment of a new British Colony at Ruatan Island, and the supposed violation of the Treaty signed at Washington on the 19th of April, 1850, which such an establishment, in his opinion, would involve. In pursuance of this resolution the President has communicated to Congress in a message, a copy of which I have the honour to inclose, the correspondence which took place between Sir Henry Bulwer and Mr. Clayton upon the subject of British Honduras and its dependencies previous to the exchange of the ratifications of that Treaty.

This communication has given rise to a debate in the Senate on the subject of the Treaty in question, and in which General Cass, as well as other senators, expressed their surprise at the nature of the information conveyed by the President's message, and, averring their entire ignorance of the existence of any correspondence between Sir Henry Bulwer and Mr. Clayton on the subject of Honduras, declared that had they been aware the provisions of the Treaty were to be interpreted as not applying to that colony, they never would have acquiesced in its ratification by the Senate. General Cass concludes by alluding to Mr. Clayton's conduct, and charging him with having wilfully concealed from the Senate the correspondence in question, and with

having consequently made to Sir Henry Bulwer a statement in regard to the manner in which the Treaty was understood by that body, not founded in fact.

This attack upon Mr. Clayton, who is not now a member of the Senate, and who is absent from Washington, has drawn from him a reply, a copy of which I have the honour to inclose, as published in the "National Intelligencer" newspaper, accompanied by copies of a correspondence which took place between himself and Mr. King, then Chairman of the Senate Committee of Foreign Relations. It will be seen that Mr. King's letter of the 4th July, 1850, entirely exculpates Mr. Clayton from the charge brought against him; the Chairman of the Committee of Foreign Relations being, by the practice of the United States' Government, the appropriate channel through which communications of an explanatory nature take place between the Legislature and the Administration, none of the members of which, as your Lordship is aware, have seats in either House of Congress. It remains, however, to be seen how Mr. King will reconcile his statement to Mr. Clayton with the assertion of General Cass and other Senators on this subject.

In a casual conversation which I had with General Cass, he expressed himself entirely satisfied with the course Her Majesty's Government had pursued in regard to this matter, and remarked that had he been aware of the real state of the case he should not have called the attention of the Senate to the occupation of Ruatan Island by Her Majesty's Government as being an infraction of the Treaty of 1850.

Inclosure 1. in No. 143.

Message.

ON Tuesday last the President of the United States laid before the Senate the subjoined letter of the Secretary of State and accompanying correspondence, in answer to a resolution of the Senate of the 30th ultimo, requesting information in regard to the establishment of a British Colony in Central America:

Department of State, Washington, January 3, 1853.

The Secretary of State, to whom was referred the Resolution of the Senate of the 30th ultimo, requesting the President "to communicate to the Senate, as far as may be compatible with the public interest, any information in the Department of State respecting the establishment of a new British colony in Central America, together with the copy of a proclamation, if received at the said Department, issued by the British authorities at the Belize, July 17, 1852, announcing that 'Her Most Gracious Majesty our Queen has been pleased to constitute and make the Islands of Ruatan, Bonacca, Utilia, Barbarat, Helena, and Morat, to be a colony, to be known and designated as the Colony of the Bay Islands,' and signed 'by command of Her Majesty's Superintendent, Augustus Fred. Gore, Colonial Secretary;'" and also what measures, if any, have been taken by the Executive to prevent the violation of that Article of the Treaty of Washington of July 4, 1850, between the United States and Great Britain, which provides that neither party shall 'occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America,'" has the honour to report that no information, official or unofficial, of the character requested by the resolution has been received at this Department. A Consul of the United States was appointed for Belize, Honduras, on the 3rd of March, 1847, and the Minister of the United States at London was instructed by the Department to apply to the British Government for his exequatur. It appears, however, from the letter of the Department to him of the 1st of March 1850, an extract from which is hereunto annexed, that his Commission was revoked. As no successor has since been appointed, there has been no officer of this Government in that quarter from whom the information asked for in the resolution could be expected by the Department. The accompanying note from Mr. Clayton to Sir Henry L. Bulwer, of the 4th of July, 1850, which has an important bearing upon the inquiries contained in the resolution, is also laid before you.

Respectfully submitted.

(Signed) EDWARD EVERETT

To the President of the United States.

Mr. Clayton to Mr. Hempstead.

(Extract.)

Department of State, Washington, March 1, 1850.

As it is presumed that the appointment of a Consul of the United States at Belize, even if required by our trade with that port, may have been made without full consideration of the territorial rights of Great Britain in that quarter, it is deemed advisable, under existing circumstances, to discontinue that Consulate.

You will consequently consider your functions as terminated on the receipt of this despatch, and will apprise the proper authorities at Belize to that effect. If you should conclude to return to this country, it would be advisable to bring with you such vouchers as may be necessary to support any credits which you may claim at the Treasury. The papers, books, flag, and seal of the Consulate must also be sent or brought to the United States, for the purpose of being lodged in the Department.

Sir,

Department of State, Washington, July 4, 1850.

I have received the declaration you were instructed by your Government to make to me respecting Honduras and its dependencies, a copy of which is hereto subjoined.

The language of the first Article of the Convention concluded on the 19th day of April last, between the United States and Great Britain, describing the country not to be occupied, &c., by either of the parties, was, as you know, twice approved by your Government; and it was neither understood by them, nor by either of us (the negotiators), to include the British Settlement in Honduras (commonly called British Honduras, as distinct from the State of Honduras), nor the small Islands in the neighbourhood of that Settlement, which may be known as its dependencies. To this Settlement and these Islands, the Treaty we negotiated was not intended by either of us to apply. The title to them it is now and has been my intention, throughout the whole negotiation, to leave as the Treaty leaves it, without denying, affirming or in any way meddling with the same, just as it stood previously. The chairman of the Committee on Foreign Relations of the Senate, the Honourable William R. King, informs me that "the Senate perfectly understood that the Treaty did not include British Honduras." It was understood to apply to, and does include all the Central American States of Guatemala, Honduras, San Salvador, Nicaragua, and Costa Rica, with their just limits and proper dependencies. The difficulty that now arises seems to spring from the use, in our Convention, of the term "Central America," which we adopted because Viscount Palmerston had assented to it, and used it as the proper term—we naturally supposing that, on this account, it would be satisfactory to your Government; but if your Government now intend to delay the exchange of ratifications until we shall have fixed the precise limits of Central America, we must defer further action until we have further information on both sides, to which at present we have no means of resort, and which it is certain we could not obtain before the term fixed for exchanging the ratifications would expire. It is not to be imagined that such is the object of your Government; for not only would this course delay, but absolutely defeat the Convention.

Of course, no alteration could be made in the Convention, as it now stands, without referring the same to the Senate; and I do not understand you as having authority to propose any alteration. But, on some future occasion, a Conventional Article, clearly stating what are the limits of Central America, might become advisable.

There is another matter still more important, which the stipulations of the Convention direct that we shall settle, but which you have no instructions now to determine; and I desire you to invite the attention of your Government to it: "The distance from the two ends of the Canal within which vessels of the United States or Great Britain, traversing the said Canal, shall, in case of war between the Contracting Parties, be exempted from blockade, detention, or

capture by either of the belligerents." The subject is one of deep interest; and I shall be happy to receive the views of your Government in regard to it as soon as it may be convenient for them to decide upon it.

I renew, &c.

(Signed) JOHN M. CLAYTON.

To the Right Hon. Sir H. L. Bulwer, &c.

Declaration.

In proceeding to the exchange of the ratifications of the Convention signed at Washington on the 19th April, 1850, between Her Britannic Majesty and the United States of America, relative to the establishment of a communication by Ship-Canal between the Atlantic and Pacific Oceans, the Undersigned, Her Britannic Majesty's Plenipotentiary, has received Her Majesty's instructions to declare that Her Majesty does not understand the engagements of that Convention to apply to Her Majesty's Settlement at Honduras, or to its dependencies. Her Majesty's ratification of the said Convention is exchanged under the explicit declaration above mentioned.

Done at Washington, the 29th day of June, 1850.

(Signed) H. L. BULWER.

Memorandum.

Department of State, Washington, July 5, 1850.

The within declaration of Sir H. L. Bulwer was received by me on the 29th day of June, 1850. In reply, I wrote him my note of the 4th of July, acknowledging that I understood British Honduras was not embraced in the Treaty of the 19th of April last, but, at the same time, carefully declining to affirm or deny the British title in their Settlement or its alleged dependencies. After signing my note last night, I delivered it to Sir Henry, and we immediately proceeded, without any further or other action, to exchange the ratifications of said Treaty. The consent of the Senate to the declaration was not required, and the Treaty was ratified as it stood when it was made.

(Signed) JOHN M. CLAYTON.

N.B.—The rights of no Central American State have been compromised by the Treaty or by any part of the negotiation.

Inclosure 2 in No. 143.

Extract from the "National Intelligencer" of January 8, 1853.

CENTRAL AMERICAN TREATY.

Wilmington (Del.), January 7, 1853.

To Messrs. Gales and Seaton, Washington.

I HAVE been astonished at reading to-day the attack made upon me in the United States' Senate yesterday.

I have the letter of the Honourable Wm. R. King, Chairman of the Committee on Foreign Relations, written to me on the day of the exchange of ratifications of the British Treaty of the 19th April, 1850, stating, in the very words of my letter to Sir Henry Bulwer, what the Senate perfectly understood, that the Treaty did not include British Honduras.

To show you with what injustice I have been assailed and misrepresented, I will send you the original correspondence between Mr. King and myself by the earliest opportunity. I herewith send you a precise copy, certified by the gentlemen whose names are annexed.

You will perceive that my letter to Sir Henry Bulwer, written on the same day of the date of Mr. King's letter, and after it was received, informs Sir Henry

that the title to British Honduras it was then, and had been, my intention to leave as the Treaty left it, without denying, affirming, or in any way meddling with the same—just as it previously stood.

The British title to the Central American States was recognised by Mr. Polk, in sending there Mr. Christopher Hempstead as Consul, who remained in British Honduras, under the protection of the British flag, and in virtue of an exequatur obtained by Mr. Buchanan from the British Government, nearly three years, till I recalled him, to prevent the possibility of any charge against General Taylor's administration of having recognized the English authority in British Honduras.

Please publish this note in to-morrow's paper.

(Signed)

JOHN M. CLAYTON.

Mr. Clayton to Mr. King.

Dear Sir,

July 4, 1850.

I am this morning writing to Sir H. L. Bulwer, and while about to decline altering the Treaty at the time of exchanging ratifications, I wish to leave no room for a charge of duplicity against our Government, such as that we now pretend that Central America in the Treaty includes British Honduras.

I shall therefore say to him, in effect, that such construction was not in the contemplation of the negotiators or the Senate at the time of confirmation. May I have your permission to add that the true understanding was explained by you, as Chairman of Foreign Relations, to the Senate, before the vote was taken on the Treaty? It think it due to frankness on our part.

Very truly yours,

(Signed)

J. M. CLAYTON.

To Hon. Wm. King, United States' Senate.

We certify that the above is a correct copy of the letter from the Honourable J. M. Clayton, Secretary of State, to the Honourable Wm. R. King.

(Signed)

J. WALES.

JOHN KIRKMAN.

P. SHEWARD JOHNSON.

WM. K. McCLEES.

Mr. King to Mr. Clayton.

My dear Sir,

July 4, 1850.

The Senate perfectly understood that the Treaty did not include British Honduras. Frankness becomes our Government, but you should be careful not to use any expression which would seem to recognise the right of England to any portion of Honduras.

Faithfully, &c.

(Signed)

W. R. KING.

To Hon. John M. Clayton, Secretary of State.

The above is a correct copy of a letter of W. R. King, now in possession of Honourable John M. Clayton.

(Signed)

J. WALES.

P. S. JOHNSON.

W. R. McCLEES.

Extract of a Letter from Mr. Clayton to Sir Henry Bulwer.

It is unnecessary for me to repeat that the Treaty negotiated was not intended by either of us to apply to the British Settlement of Honduras and dependencies, before described, the title to which it is now, and has been my intention throughout the whole negotiation, to leave as the Treaty leaves it, without denying, affirming, or in any way meddling with the same—just as it stood previously.

No. 144.

Mr. Crampton to the Earl of Malmesbury.—(Received January 31.)

(Extract.)

Washington, January 16, 1853.

IN my despatch of the 10th instant I had the honour to refer to a debate in the Senate of the United States on the subject of the establishment of a new British Colony at Ruatan Island, in the Gulf of Honduras, involving, in the opinion of General Cass and other Senators, a violation of the Treaty signed at Washington on the 19th April, 1850, by Sir Henry Bulwer and Mr. Clayton.

The object of General Cass, the gentleman who brought this subject forward, seems to have been twofold :—

1st. To impugn the conduct of General Taylor's Administration by showing that Mr. Clayton had wilfully withheld from the knowledge of the Senate the declaration made by Sir Henry Bulwer on the part of Her Majesty's Government upon the ratification of the Treaty in question, that the provisions thereof were not to be considered to apply to British Honduras; thereby obtaining the votes of him (General Cass) and many other Senators in favour of a Treaty which they would have voted against, had they been aware of the existence of that declaration, and which Treaty they had only supported under an impression that "it swept every vestige of British power from Central America."

2nd. To establish against Her Majesty's Government a charge of violation of the Treaty, whether understood as qualified by the above-named declaration or not, in the establishment of "a new Colony" in Central America, by a proclamation issued by the authority of Her Majesty's Superintendent at the Belize, dated the 17th of July, 1852, constituting Ruatan, Bonacca, and other islands, into a separate Settlement, under the name of the "Colony of the Bay Islands."

Mr. Seward, in defence of General Taylor's Administration, showed successfully that Senators could not have been, or at least ought not to have been, under any misapprehension as to the meaning of the Treaty, even supposing (which he feels a difficulty in supposing) that they were not aware of the declaration on the part of Great Britain which accompanied its ratification: it being notorious that a British Settlement, by whatever title it might be held, did exist at Belize, and that it could not have been reasonably supposed by any one that the British Government had entered into an engagement to abandon this Settlement by a Treaty in which it was not even alluded to.

No inquiry upon this subject has ever been addressed to me by the United States' Government.

No. 145.

Mr. Crampton to the Earl of Malmesbury.—(Received January 31.)

(Extract.)

Washington, January 16, 1853.

IN the course of the debate alluded to in my previous despatch of this day's date, the injunction of secrecy upon the proceedings of the Senate when in Executive Session having been removed, the message of President Taylor by which the Treaty of April 1850, signed by Mr. Clayton and Sir Henry Bulwer, was consequently made public.

As it contains a statement of the views of the United States' Government in recommending the adoption of the Treaty to the Senate, I have the honour to inclose it herewith, as published in the "Daily Union" newspaper.

Inclosure in No. 145.

Extract from the Washington "Daily Union" of January 13, 1855.

IN SENATE, April 22, 1850.

THE following message from the President of the United States was received, read, and referred to the Committee on Foreign Relations, and ordered to be printed in confidence for the use of the Senate:

To the Senate of the United States:

I herewith transmit to the Senate, for their advice with regard to its ratification, a Convention between the United States and Great Britain, concluded at Washington on the 19th instant, by John M. Clayton, Secretary of State, on the part of the United States, and by the Right Honourable Sir Henry Lytton Bulwer, on the part of Great Britain.

This Treaty has been negotiated in accordance with the general views expressed in my message to Congress in December last. Its object is to establish a commercial alliance with all great maritime States for the protection of a contemplated Ship-Canal, through the territory of Nicaragua, to connect the Atlantic and Pacific Oceans, and, at the same time, to insure the same protection to the contemplated railways or canals by the Tehuantepec and Panama routes, as well as to every other interoceanic communication which may be adopted to shorten the transit to or from our territories on the Pacific.

It will be seen that this Treaty does not propose to take money from the public treasury to effect any object contemplated by it. It yields protection to the capitalists who may undertake to construct any canal or railway across the isthmus, commencing in the southern part of Mexico, and terminating in the territory of New Granada. It gives no preference to any one route over another, but proposes the same measure of protection for all which ingenuity and enterprise can construct. Should this Treaty be ratified, it will secure in future the liberation of all Central America from any kind of foreign aggression.

At the time negotiations were opened with Nicaragua for the construction of a Canal through her territory, I found Great Britain in possession of nearly half of Central America, as the ally and protector of the Mosquito King. It has been my object in negotiating this Treaty not only to secure the passage across the isthmus to the Government and citizens of the United States, by the construction of a great highway dedicated to the uses of all nations on equal terms, but to maintain the independence and sovereignty of all the Central American Republics. The Senate will judge how far these objects have been effected.

If there be any who would desire to seize and annex any portion of the territories of these weak sister Republics to the American Union, or to extend our dominion over them, I do not concur in their policy; and I wish it to be understood in reference to that subject, that I adopt the views entertained, so far as I know, by all my predecessors.

The principles by which I have been regulated in the negotiation of this Treaty are in accordance with the sentiments well expressed by my immediate predecessor on the 10th of February, 1847, when he communicated to the Senate the Treaty with New Granada for the protection of the railroad at Panama. It is in accordance with the whole spirit of the resolution of the Senate of the 3rd of March, 1835, referred to by President Polk, and with the policy adopted by President Jackson (immediately after the passage of that resolution), who dispatched an agent to Central America and New Granada, "to open negotiations with those Governments for the purpose of effectually protecting, by suitable Treaty stipulations with them, such individuals or companies as might undertake to open a communication between the Atlantic and Pacific Oceans by the construction of a Ship-Canal across the isthmus which connects North and South America, and of securing for ever, by such stipulations, the free and equal right of navigating such Canal to all such nations on the payment of such reasonable tolls as might be established to compensate the capitalists who should engage in such undertaking and complete the work.

I also communicate herewith a copy of the correspondence between the American Secretary of State and the British Plenipotentiary at the time of concluding the Treaty. Whatever honour may be due to the party first proposing such a Treaty justly belongs to the United States. My predecessor, in his message of the 10th of February, 1847, referring to the Treaty with New Granada for the protection of the Panama Railroad, observes that, "should the proposition be rejected, we may deprive the United States of the just influence which its acceptance might secure to them, and confer the glory and benefits of being first among the nations in concluding such an arrangement upon the Government either of Great Britain or France. That either of these Governments would embrace the offer cannot well be doubted, because there does not appear to be any other effectual means of securing to all nations the advantages of this important passage but the guarantee of great commercial Powers that the isthmus shall be neutral territory. The interests of the world at stake are so important that the security of this passage between the two oceans cannot be suffered to depend upon the wars and revolutions which may arise among different nations.

Should the Senate, in its wisdom, see fit to confirm this Treaty, and the Treaty heretofore submitted by me for their advice in regard to its ratification, negotiated with the State of Nicaragua, on the 3rd day of September last, it will be necessary to amend one or both of them, so that both Treaties may stand in conformity with each other in their spirit and intention. The Senate will discover by examining them both that this is a task of no great difficulty.

I have good reason to believe that France and Russia stand ready to accede to this Treaty, and that no other great maritime State will refuse its accession to an arrangement so well calculated to diffuse the blessings of peace, commerce, and civilization, and so honourable to all nations which may enter into the engagement.

(Signed) Z. TAYLOR.

Washington, April 22, 1850.

Mr. Clayton to Sir Henry Bulwer, April 19, 1850.

[See Inclosure 1 in No. 36.]

Sir Henry Bulwer to Mr. Clayton, April 19, 1850.

[See Inclosure 2 in No. 36.]

The Convention itself it is deemed unnecessary to publish, as it was promulgated when ratified in July 1850.

IN SENATE, May 9, 1850.

The following message from the President of the United States was received, read, and referred to the Committee on Foreign Relations, and ordered to be printed in confidence for the use of the Senate:

To the Senate of the United States:

With reference to the Convention between the United States and Her Britannic Majesty, relative to interoceanic communication by the way of Nicaragua, recently submitted to the Senate, I transmit a copy of a note, under date the 29th ultimo, addressed to the Secretary of State by Sir Henry L. Bulwer, Her Britannic Majesty's Minister here, and of Mr. Clayton's reply, under date the 30th ultimo. Intelligence received from the Chargé d'Affaires of the United

States in Central America, and from other quarters, having lead to an apprehension that Mr. Chatfield, Her Britannic Majesty's Minister in that country, had concluded a Treaty with the Government of Costa Rica, placing that State under the protection of the British Government, I deemed it my duty to cause inquiries upon the subject to be addressed to Her Majesty's Government, through Sir Henry L. Bulwer. The note of that functionary communicates the answer to those inquiries, and may be deemed satisfactory, both from the denial of the fact that any such Treaty had been concluded, and from its positive disavowal, on behalf of the British Government, of the policy intended to be subserved by such Treaties.

(Signed) Z. TAYLOR.

Washington, May 8, 1850.

Sir Henry Bulwer to Mr. Clayton.

Sir.

British Legation, April 29, 1850.

I have the honour to inform you that Her Majesty's Government have entirely approved of the language which I held to you with reference to your inquiry as to whether it was true that Mr. Chatfield had made a Treaty with Costa Rica, taking that Republic under British protection, and of the assurance I then gave you that I did not believe, from the opinions which I had heard Her Majesty's Secretary of State for Foreign Affairs express, that he could have authorized Mr. Chatfield to make any Treaty placing the Republic of Costa Rica under the protection of Her Majesty. I have been furthermore instructed to state to you that the British Government has not made, and has no intention of making, any Treaty or arrangement with Costa Rica for taking that State under British protection.

I am also desired to add that it would be contrary to the fixed and settled policy of Great Britain to entangle herself by any engagement to protect distant States, over whose policy and conduct it would be impossible for the British Government to exercise any effective control. Such a protectorate would confer no possible advantage on Great Britain, and might become the source of many embarrassments to her.

I avail, &c.

(Signed) H. L. BULWER.

Hon. J. M. Clayton, &c.

Mr. Clayton to Sir Henry Bulwer.

Department of State,

Sir,

Washington, April 30, 1850.

I have the honour to acknowledge the receipt of your note of the 29th instant, informing me that Her Britannic Majesty's Government have entirely approved of the language which you held, and the assurance which you gave to me, with reference to my inquiry as to whether it was true that Mr. Chatfield had made a Treaty with Costa Rica, taking that Republic under British protection; that you have been furthermore instructed to state to me that your Government has not made, and has no intention of making, any Treaty or arrangement with Costa Rica of that kind; and that you are also directed to add that it would be contrary to the fixed and settled policy of Great Britain to entangle herself by any engagement to protect distant States over whose policy and conduct it would be impossible for her to exercise any effective control.

I take pleasure in expressing the satisfaction with which this Government has received this friendly assurance from that of Her Britannic Majesty, the more especially as it cannot fail to strengthen the bonds of amity now existing between our respective countries.

I avail, &c.

(Signed) JOHN M. CLAYTON.

Right Hon. Sir H. L. Bulwer, &c.

IN SENATE, MAY 22, 1850.

The following resolution was under consideration :—

Resolved (two-thirds of the Senators present concurring), that the Senate advise and consent to the ratification of the Convention between the United States of America and Her Britannic Majesty, concluded at Washington the 19th day of April, A.D. 1850.

And the vote being taken thereon, resulted—yeas, 42, nays 11.

So the Senate advised and consented to the ratification of the said Convention.

No. 146.

Mr. Crampton to Lord John Russell.—(Received February 14.)

(Extract.)

Washington, January 30, 1853.

I HAVE the honour to inclose a newspaper containing the copy of a Resolution offered in the Senate of the United States by General Cass on the 25th instant, to the effect that the Committee on Foreign Relations should be instructed to inquire “whether any measure should be taken by the Senate, and if any, what, in relation to the Declaration on the part of Great Britain annexed to the Ratification of the Treaty of 19th of April, 1850.”

This Resolution, after a debate, was carried by a majority of twenty-nine to seventeen votes.

Inclosure in No. 146.

Resolution.

Resolved,—THAT the Committee on Foreign Relations be instructed to inquire and report whether any measure, and if any, what, should be taken by the Senate in relation to the Declaration annexed to the ratification on the part of Great Britain of the Treaty concluded between that country and the United States, April 19, 1850, and to the letter of the Secretary of State to the British Minister on the exchange of the ratifications.

No. 147.

Mr. Crampton to Lord John Russell.—(Received February 14.)

(Extract.)

Washington, January 30, 1853.

WITH reference to my despatch of the 10th instant, in which I had the honour to inform your Lordship that a resolution had been passed in the Senate of the United States to request the President to communicate to Congress any correspondence which had taken place between the Governments of Great Britain and the United States, or other documents, relative to the affairs of Nicaragua and Mosquito; I have now the honour to inclose a copy of a message of the President in reply to that resolution, declining to communicate the correspondence or documents in question at the present time.

Inclosure in No. 147.

Extract from the "National Intelligencer" of January 29, 1853.

Congress, Friday, January 28, 1853.

IN SENATE.

THE following message was received from the President of the United States :

"To the Senate of the United States :

"In answer to a resolution of the Senate of the 13th instant, requesting a copy of correspondence and other documents relative to Nicaragua, Costa Rica, and the territory claimed by the Mosquito Indians, I transmit a report from the Secretary of State, to whom the resolution was referred."

(Signed) "MILLARD FILLMORE.

"Washington, January 27, 1853."

Report of the Secretary of State.

After reciting the resolution of the Senate, the Secretary reports as follows :

"The Secretary of State has the honour to report, that as the negotiations on the general subjects referred to in the resolution are still pending, the production of the papers would tend to increase the difficulties which attend the settlement of the questions in discussion ; and that for this reason it would not be for the public interest that they should at this time be communicated.

"Respectfully submitted.

(Signed) "EDWARD EVERETT.

"Department of State, Washington, January 27, 1853."

No. 148.

Mr. Crampton to Lord John Russell.—(Received February 23.)

My Lord,

Washington, February 7, 1853.

IN obedience to the instructions contained in your Lordship's despatch of the 13th ultimo, I have set on foot inquiries in regard to the real condition and intentions of the Interoceanic Canal Company, and with regard to their competency to carry into execution their plan for the construction of a Ship-Canal for vessels of large burthen, such as is contemplated by the Treaty of April 1850, as a line of communication for the commerce of the whole world.

Although I have not, as yet, been enabled to obtain information of an exact and authentic nature in regard to this subject, I think I may state, as matters of fact which admit of little doubt :

1. That the Company are not at present in a condition to enter upon the construction of the proposed canal ; and,

2. That they have sent a special agent (a Mr. Edmonds) to Nicaragua, in order to propose to the Nicaraguan Government the construction of a canal of smaller dimensions.

I have inquired of the United States' Secretary of State whether the Canal Company had given to the United States' Government any intimation of this change in their plans ; and, if so, what had been the view taken of the matter by the United States' Government.

Mr. Everett replied, that since his accession to office he had heard nothing upon the subject ; but that it was just possible that during the interval between Mr. Webster's death and his own arrival at the Department of State, such a

communication might have been made; and he promised me that he would make immediate inquiries on the subject, and communicate to me the result.

I found in Mr. Everett an entire concurrence in the view of this matter taken by Her Majesty's Government, as expressed to me in your Lordship's despatch.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 149.

Mr. Crampton to Lord John Russell.—(Received February 28.)

My Lord,

Washington, February 13, 1853.

WITH reference to my despatch of the 7th instant, I have the honour to inform your Lordship that I have ascertained that the American Canal Company who have entered into a contract with the Nicaraguan Government for the construction of an Interoceanic Ship-Canal across the Isthmus, by the line of the St. John, have made no intimation to the Government of the United States of their inability to carry out this plan, and of their intention to propose to the Nicaraguan Government the construction of a canal of smaller dimensions.

As Mr. Everett seemed entirely to concur in the views of Her Majesty's Government upon this matter, I suggested the expediency of an instruction being addressed to the Chargé d'Affaires of the United States in Nicaragua, directing him to make inquiries in regard to the proceedings of the agent who has been dispatched to that country by the Canal Company, and to intimate to the Nicaraguan Government the concurrence of the United States in the opinion of this matter entertained by Her Majesty's Government.

Mr. Everett said that he would immediately submit the subject to the consideration of the President, and, for this purpose, he requested me to embody in a note the substance of the observations which I had made to him.

I have consequently addressed to Mr. Everett the note a copy of which I have the honour to inclose herewith.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 149.

Mr. Crampton to Mr. Everett.

Sir,

Washington, February 9, 1853.

IT has been intimated to Her Majesty's Government by the Nicaraguan Minister at Washington, who is also accredited to Her Majesty's Government, that the American Company which was formed for the purpose of constructing an Interoceanic Canal across the Isthmus of Nicaragua, having found it impossible to carry out the plan as originally contemplated, has resolved to propose to the Government of Nicaragua a modification of that plan, with the view of constructing a canal of smaller dimensions than those specified in their contract; and M. Marcoleta therefore asks whether the maritime Powers would be disposed to protect and guarantee the neutrality of a Canal of this description, in the same manner as they were disposed with regard to the Ship-Canal originally contracted for.

Her Majesty's Government are of opinion that, before any further steps can properly be taken in this matter, it must first be ascertained whether the assertion respecting the competency of the American Company to carry out the original plan is correct; and, if it is correct, it would be then, in their opinion, necessary to ascertain with accuracy what the present intentions of the Company are, and what, precisely, are the proposals which they have made to the Nicaraguan Government.

It is with this view that I now beg to address you, Sir, and to inquire whether the Company has made any intimation to the Government of the United

States of the supposed change in their intentions, or whether your Department is otherwise in possession of any information in regard to this matter ; for, if the Company should prove unable to fulfil the engagements contracted by them with the Government of Nicaragua for the construction of such a ship-canal, Her Majesty's Government would of course feel themselves at liberty, under the VIIth Article of the Treaty of Washington of the 19th of April, 1850, to withdraw their protection from that Company, and to transfer it to any other Company which should undertake to construct such a canal.

I am instructed, in addressing you on this subject, to express the deep regret with which Her Majesty's Government would have learned the failure of the great project for the effectual execution of which the Convention of April 1850, between Great Britain and the United States, was mainly entered into ; and to observe that Her Majesty's Government could not undertake to guarantee the neutrality of any Interoceanic Canal across the Isthmus, which, in its character and dimensions, failed to answer to the essential designation of "Ship-Canal" employed in the Convention of 1850.

Her Majesty's Government have been ever sincerely desirous to contribute to the speedy and effectual construction of a grand Interoceanic Canal by the line of the St. John's, which should open a line of communication across the Isthmus to the trade of the whole world in ships of large burthen, and could not, without disappointment, see so splendid a conception dwindle down to the narrow compass of an ordinary transit route for mere coasting vessels, which, to distant nations, would be almost destitute of value.

I have, &c.

(Signed) JOHN F. CRAMPTON.

No. 150.

Mr. Crampton to Lord John Russell.—(Received February 28.)

My Lord,

Washington, February 13, 1853.

I HAVE not failed, in obedience to the instructions contained in your Lordship's despatches of the 19th ultimo,* to call Mr. Everett's attention to the question of the future condition of Greytown and the Mosquito Coast, and to make him acquainted with the views of Her Majesty's Government upon this matter, as well as with those entertained by them generally in regard to the affairs of Central America, embodied in those despatches.

I remarked to Mr. Everett that it was extremely agreeable to me to be able to convey to him assurances on the part of Her Majesty's Government of so frank and friendly a nature, at a time when the supposed proceedings of Her Majesty's Government in that region were made the subject of so much unfounded animadversion by members of the Senate of the United States in the debates of that body ; and I added, that my satisfaction was increased by the consideration that, at the time your Lordship had written the despatches which I had just read to him, the report of the debates to which I alluded had not reached Her Majesty's Government.

Mr. Everett entirely concurred in the justice of my remarks, and said that the latter circumstance which I had mentioned was one which would very much strengthen the position of Her Majesty's Government in regard to the designs attributed to them by some of the leaders of the democratic party in Congress ; and he added, that the President would be glad to be able to refer, in his communications to that body, to your Lordship's language touching the policy of the British Government respecting the Central American States, as of a nature to allay the unfounded suspicions which, in some quarters, seemed to exist in regard to it. With this view he requested me to furnish him with copies of your Lordship's despatches for communication to the President.

Your Lordship's instructions allowing of my so doing, I did not hesitate to comply with Mr. Everett's request. I stated, however, that the communication must be considered to be confidential.

* Nos. 141 and 142.

With regard to the proposed arrangement of the Mosquito question, Mr. Everett expressed his regret that the time now remaining to the present Administration was too short to enable them to take up the matter with any prospect of bringing it to a conclusion. The friendly sentiments of Her Majesty's Government, and the frank expression of their views, would, nevertheless, he sincerely hoped, render its settlement easily attainable by negotiation with the incoming Administration of the United States.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 151.

Mr. Crampton to Lord John Russell.—(Received February 28.)

(Extract.)

Washington, February 13, 1853.

I HAD the honour to inform your Lordship in my despatch of the 30th ultimo,* that a resolution offered by General Cass in the Senate of the United States, had been carried, to the effect that the Committee on Foreign Relations should be instructed to inquire "whether any measure should be taken by the Senate, and if any, what, in relation to the Declaration on the part of Great Britain, annexed to the ratification of the Treaty of the 19th of April, 1850."

This subject was consequently taken into consideration by the Committee, and their report thereupon was laid before the Senate on the 11th instant.

The Report has not yet been printed, but as soon as I shall have obtained copies of it, I will not fail to forward them to your Lordship.†

No. 152.

Mr. Crampton to Lord John Russell.—(Received March 9.)

My Lord,

Washington, February 21, 1853.

I HAD the honour of informing your Lordship, in my despatch of the 13th instant,‡ that I had communicated to Mr. Everett, confidentially, for the President's information, your Lordship's despatches of the 19th ultimo,§ in which are set forth the views and opinions of Her Majesty's Government in regard to the future condition of Greytown, and generally in regard to the affairs of Central America as connected with the project of an Inter-oceanic Canal across the Isthmus, by way of the River San Juan and the Lakes of Nicaragua.

Mr. Everett, in a subsequent conversation, said that the President wished to be informed how far he might avail himself in a communication to Congress of the information which I had conveyed to him in regard to the proposals of Her Majesty's Government, and their views as to the most effectual means of bringing the affairs in question to a favourable termination.

I replied, that I felt convinced that Her Majesty's Government would not only not object to a full and explicit announcement of their views to the Congress of the United States, but would see with satisfaction such an announcement made in the authentic form of a message from the President to that body. The policy and proceedings of Her Majesty's Government in regard to Central America and the Inter-oceanic Canal had, I remarked, been lately made the subject of so much misconception and misrepresentation on the part of certain members of the Senate, founded no doubt upon the vague and unauthorized reports of ignorant or ill-disposed individuals who were not in a position to be

* No. 146.

† No. 150.

‡ See Inclosure in No. 154.

§ Nos. 141 and 142.

responsible for their misstatements, that the more fully and frankly the real views of Her Majesty's Government were made known in an authentic form the better : Her Majesty's Government, I added, had nothing to conceal in regard to the subject of Central America ; they had been from the beginning sincerely desirous to promote the great enterprise of an Interoceanic Canal, for the benefit of all nations. The Treaty of April 1850 had been concluded with the sole view of removing the obstacles which might impede that undertaking. The views of Her Majesty's Government in regard to this matter remain unchanged and they had consequently no desire either to abrogate or evade the engagements of that Treaty, the provisions of which, on the contrary, they desired to see carried out in their true spirit. Her Majesty's Government, on the other hand, felt assured that neither the Government of the United States or any part of the Legislature could desire to force upon them any act which would be inconsistent with engagements to other parties which they were bound in honour to fulfil, and the existence of which engagements they had never attempted to conceal.

I have now the honour to inclose the copy of a message from the President to Congress on this subject, in which your Lordship will perceive that Mr. Fillmore has embodied the information which I conveyed to him.

I have reason to believe that the publication of this document has already produced a salutary effect.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 152.

Message from the President of the United States, communicating a Report from the Secretary of State, embodying the substance of recent Communications from the British Minister on the subject of the Interoceanic Canal, by the Nicaragua Route.

To the Senate and House of Representatives :

I TRANSMIT a Report from the Secretary of State, embodying the substance of recent communications made by the Minister of Her Britannic Majesty to the Department of State, on the subject of the Interoceanic Canal by the Nicaraguan route, which formed the chief object of the Treaty between the United States and Great Britain of April 19, 1850 ; and the relations of Great Britain to the Protectorate of Mosquito, which she expresses herself desirous of relinquishing on terms consistent with her honourable engagements to the Indians of that name.

In consequence of these communications, and other considerations stated in the Report, it is deemed advisable by the Department that our diplomatic relations with the States of Central America should be placed on a higher and more efficient footing, and this measure meets my approbation. The whole subject is one of so much delicacy and importance, that I should have preferred, so near the close of my administration, nor to make it the subject of an executive communication. But inasmuch as the measure proposed cannot, even if deemed expedient by my successor, take effect for near a twelvemonth, unless an appropriation is made by this Congress, I have thought it my duty to submit the Report of the Department to the two Houses. The importance of the measure seemed to require an exposition somewhat in detail of the grounds on which it is recommended.

(Signed) MILLARD FILLMORE.
Washington, February 18, 1853.

Sir, *Department of State, Washington, February 16, 1853.*

Recent communications have been made to this Department by the British Minister, relative to the affairs of Central America, of which I deem it my duty to report to you the substance.

It may first be proper to observe that the relations of the United States with some of the States of Central America have, of late years, assumed an importance wholly out of proportion to the political consequence of these small Republics, or the extent of our commercial intercourse with them, which is inconsiderable. This importance grows chiefly out of the fact, that one of the most advantageous routes of interoceanic communication lies through this region. The public policy of the United States presents few objects at the present day of equal interest with a direct, expeditious, and economical line of intercourse between our Atlantic coast and the members of the Union on the Pacific.

It was mainly to effect this object that the Treaty of 19th April, 1850, was negotiated between the United States and Great Britain. By this Treaty the High Contracting Parties bound themselves to use their influence with any State or States, or Governments, possessing, or claiming to possess, any jurisdiction or right over the territory which the proposed Ship-Canal may traverse, or which shall be near the waters applicable thereto, in order to induce such States or Governments to facilitate the construction thereof by every means in their power; and they also agreed to use their good offices wherever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the Canal.

It was also stipulated by the Treaty of 19th April, 1850, that if any differences should arise as to right or property over the territory through which the said Canal shall pass, between the States or Governments of Central America, and such differences should in any way impede or obstruct the execution of the said Canal, the Governments of the United States and Great Britain would use their good offices to settle such differences in the manner best suited to promote the interests of the said Canal.

In execution of this stipulation, certain propositions were agreed upon by this Department and the British Minister, in the month of April last, having for their object to settle the territorial controversies which existed between the States and Governments bordering on the line of the Canal. These terms of settlement were assented to by Costa Rica, but did not prove acceptable to Nicaragua.

In making these propositions to the States interested, and in all the negotiations carried on by this Government, the only object has been to secure, as far as possible, the passage of the Canal through one and the same civilized State, in order to preclude the evils too likely to arise from its passing through more than one jurisdiction; and to exercise the influence and mediation of the United States, which had been invoked by the parties in controversy, in the manner best calculated to promote their respective interests.

The conflicting claims of Great Britain and Nicaragua with reference to Mosquito, are among the difficulties which embarrass this subject. These difficulties arise principally from the fact that the Port of San Juan del Norte, the eastern outlet of the Canal, is claimed to belong to the Mosquito territory. By the first Article of the Treaty of 19th April, 1850, the two parties agree that neither the one nor the other will ever erect or maintain any fortification commanding the Canal, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America. But the relations of Great Britain to Mosquito and the Mosquito Indians, over which she claims to have exercised a Protectorate for a long course of years, remained under this Treaty somewhat indeterminate.

The Port of San Juan del Norte, to which the name of Greytown has been given by Great Britain, though claimed as within the limits of this Protectorate, has for about a year been really governed in the name of the titular King of Mosquito, by a Committee of five American citizens chosen by the people. Nicaragua claims the rightful sovereignty over this port (from which her authorities were, after a brief possession, ejected by a British force in January 1848), and over the whole Mosquito region, of which, however, it is maintained by Great Britain that Nicaragua never at any time had possession.

Information has lately been received at this Department, from the Minister of Her Britannic Majesty, that the company which had contracted to build a Ship-Canal across the Isthmus of Nicaragua, having found it impossible to carry out the plan as originally contemplated, has resolved to propose to the Govern-

ment of Nicaragua a modification of that plan, with the view of constructing a canal of smaller dimensions than those specified in their contract; and the British Minister has been instructed to intimate to this Department, that if this information should prove correct. Her Majesty's Government would feel themselves at liberty, under the VIIth Article of the Treaty of 19th April, 1850, to withdraw their protection from that company, and to transfer it to any other company which should undertake a canal on the original plan; it being deemed of the utmost importance by the British Government that the great conception of an Interoceanic Canal, adapted to the accommodation of the vessels of the whole commercial world, should not dwindle down to an ordinary transit route for coasting vessels, which to distant nations would be comparatively destitute of value.

The British Minister has also been instructed to signify to this Department that since Great Britain first assumed the protection and defence of the Mosquito Indians, the position of all parties had changed. Spain, instead of exercising absolute sovereignty over Central America, and prohibiting all commerce on the coast under her sway, has entirely lost her dominion over all parts of this continent. The Mosquito Indians, instead of governing their own tribe according to the customs of their race, furnish only a name and a title by which foreigners trading at San Juan del Norte, and along the Mosquito Coast, according to the usages of civilized States, exercise the effective government of the country. In consequence of those changes, Great Britain, instead of having, as formerly, an interest in the defence of the Mosquito Indians, for the sake of exempting a part of the territory of Central America from Spanish control, and thereby obtaining admission for her commerce, has now no other interest in Mosquito but such as she derives from an honourable regard to her old connection with the Mosquito nation of Indians.

It has been further stated to the Department by the British Minister, that Her Majesty's Government has for several years endeavoured to suit her engagements to the altered circumstances of the case; but that every proposal to that effect has encountered insuperable obstacles. The contentions in Central America between Nicaragua, Costa Rica, and Honduras, the absence of any authority with which a permanent agreement could be made, and various other causes, have hitherto prevented a settlement of this vexatious question.

The British Government regards the Committee of Government of San Juan del Norte, above referred to, as in fact the real power which exercises authority in that part of Central America. It would be a matter of indifference to Great Britain whether that authority was exercised in the name of the King of Mosquito, or in the name of the city of San Juan del Norte itself; but it is desired by the British Government that the apparent state of things should be made to conform to the reality, which is not now the case; the government being nominally carried on in the name of the King of Mosquito, while it is really exercised by the Committee organized at San Juan del Norte, or Greytown, under a popular election.

What the British Government would consider a good and final arrangement would be—

1st. That San Juan del Norte, or Greytown, should be a free and independent port, connected with Mosquito by such relations of friendship and alliance as may be agreed upon.

2ndly. That indemnification or advantages equivalent to those laid down in the project of Convention of the 30th April, 1852, should be assured to Mosquito, in return for its withdrawal from its present position in reference to San Juan del Norte.

3rdly. That the United States and Great Britain, without formally guaranteeing San Juan del Norte, should be ready to act in concert to defend the independence of the free city or port, from whatever quarter it may be attacked.

The British Government deem it essential that the city and port of San Juan del Norte, or Greytown, should be established either in a state of unqualified independence, with an engagement to defend Mosquito, or of qualified independence, owing allegiance and support to Mosquito.

In lieu of an indemnity in money to Mosquito for relinquishing her claims to San Juan del Norte, it is suggested by the British Government that a greater security for a certain fixed territory should be the consideration for that object.

For these purposes, they propose to dispatch some person qualified to

treat with the authorities of this city; and in case the United States concur in these views, the British Government would recommend that a new Convention, in the place of the unaccepted Agreement of 30th April, 1852, should be proposed and concluded, and that a person well qualified for the purpose should be sent by this Government to act conjointly with the Commissioner of Her Britannic Majesty.

The British Government is not unaware of the difficulties arising from the fact that certain neighbouring States altogether deny the independence of Mosquito, and that the Mosquito tribe of Indians are liable every day to new incursions upon their territory. They do not expect to make a complete provision against this danger. They consider it, however, their duty to do what is required by honour and humanity in behalf of the Mosquito nation; declaring, at the same time, that they "intend to adhere strictly to the Treaty of Washington of the 19th April, 1850, and not to assume any sovereignty, direct or indirect, in Central America."

Such is the substance of the communications which, within a few days, have been made to this Department by the British Minister, under the directions of his Government; from which it will be perceived—

First. That in consideration of the altered state of things under which it grew up, that Government is disposed to relieve itself from the Protectorate of the Mosquito Indians, provided that a security can be obtained for them against hostile incursions from the neighbouring States.

Secondly. That the British Government regards the erection of San Juan del Norte into a free and independent city, whose political condition would resemble that of the free cities of Germany, as the best course to be pursued for settling the controversies relative to the sovereignty of that place, and as the most convenient mode of insuring protection to the Mosquito Indians.

Thirdly. That though a formal guaranty of the free city is not proposed to be entered into by the two Powers, Great Britain desires the concurrence of the United States in effecting these objects.

An opinion from this Department on the merit of these suggestions, as a mode of settling the questions at issue in this part of Central America, would, under existing circumstances, be of little weight. They are given only as the views of the British Government. It may be proper, however, to state that, in the opinion of the Department, it would be more advisable that the two Governments should use their influence with Nicaragua to induce her to accept the propositions of 30th April, 1852, than that they should resort to terms of settlement less advantageous to that Government, as is the case with those now suggested by Great Britain. Recent events are believed to encourage the expectation that an effort of this kind would be successful.

However this may be, the communications of the British Minister, made by order of his Government, will no doubt be regarded as a satisfactory indication of a desire on the part of Great Britain, by resigning the Protectorate of Mosquito, to remove one of the most serious embarrassments of the case. They seem to this Department also to suggest the expediency of a new effort to induce all parties to enter into an amicable settlement of their conflicting claims and interests. Such an effort might advantageously begin, by putting the diplomatic relations of the United States with Central America on a better footing. Of the five States included under that name, Costa Rica and Nicaragua have appointed Ministers Plenipotentiary to this Government; and the Costa Rican Minister is also Minister Plenipotentiary of Guatemala. The United States have, at present, a *Chargé d'Affaires* at the capital of Nicaragua, and a *Chargé d'Affaires* to Guatemala was appointed last August, who, for causes beyond the control of the Department, has not proceeded to his post. To the other States of Central America we have no Representative. The Secretary is of opinion, taking into view these circumstances, with the great magnitude of the interests of the United States to be promoted by the construction of the Canal; the importance, delicacy, and complication of the territorial and political relations above referred to; with the overture for our friendly concurrence made by the British Government; that much benefit might attend the appointment of a full Minister to Central America, to be accredited to each of the Governments included in that name; to reside successively at such of their capitals as he should deem expedient, with full powers to treat with any or all of them; and with instructions to use the influence which his rank would give him to promote the great work of

conciliation. If some distinguished citizen of the United States, possessing the high qualifications required for the trust, should be dispatched upon this friendly mission, there is reason to hope that he would be able to convince the Governments concerned that nothing can be gained among equals by adhering to extreme rights and pretensions, however strong the conviction on which they are founded, when an opposite conviction is entertained by the other party; that their true interest lies in a compromise of their conflicting claims; that the mediation of the United States and Great Britain may be honourably and safely accepted; and that its only alternative is a too probable succession of border wars and domestic convulsions, which can have no other effect than that of defeating the great work of interoceanic communication, and in other respects inflicting the most deplorable calamities upon countries which, in the pursuit of the arts of peace, might attain a high degree of prosperity.

In addition to these considerations in favour of the proposed measure, it may be mentioned that there are important private interests of American citizens at and near San Juan del Norte, which merit the protection of an influential Representative of the Government.

Nothing would be added to the expense of our diplomatic relations with Central American beyond the outfit, by substituting a full Minister for two of the lower rank. It may be stated that our Chargé d'Affaires to Nicaragua has already been directed, on a contingency of not improbable occurrence, to return to the United States, and that the appointment of a Chargé d'Affaires to Guatemala has been revoked.

The action of Congress being required for the appropriations necessary to carry the proposed measure into effect, it is respectfully recommended that this Report should be communicated to the two Houses.

All which is respectfully submitted.

(Signed)

EDWARD EVERETT.

To the President of the United States.

No. 153.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, March 11, 1853.

I HAVE received your despatch of the 21st ultimo, and I have to state to you that Her Majesty's Government approve of your having informed the United States' Secretary of State that there would be no objection on the part of Her Majesty's Government to the communication to Congress, in the form of a message from the President, of the substance of Lord John Russell's despatches of the 19th of January last, in which are set forth the views and opinions of Her Majesty's Government in regard to the future condition of Greytown, and generally in regard to the affairs of Central America, as connected with the project of an Interoceanic Canal across the Isthmus of Nicaragua.

I am, &c.

(Signed)

CLARENDON.

No. 154.

Mr. Crampton to Lord John Russell.—(Received March 14.)

My Lord,

Washington, February 27, 1853.

WITH reference to my despatch to your Lordship of the 13th instant,* I have now the honour to transmit to your Lordship herewith, as printed for the use of the Senate, triplicate copies of the Report of the Committee on Foreign Relations in answer to the resolution of the Senate requesting information in regard to the establishment of a new British colony in Central America.

I have, &c.

(Signed)

JOHN F. CRAMPTON.

* No. 151.

Inclosure in No. 154.

Report of the Committee on Foreign Relations respecting Establishment of a New British Colony in Central America.

THE Committee on Foreign Relations, to whom was referred the message of the President of the United States of the 4th January, and to whom also has been referred the resolution of the Senate adopted on the 27th of the same month, have had the same under consideration, and report :

The message of the President is as follows :

In answer to the resolution of the Senate of the 30th ultimo, requesting information in regard to the establishment of a new British colony in Central America, I transmit a report from the Secretary of State, and the documents by which it was accompanied.

(Signed) MILLARD FILLMORE.

Washington, January 4, 1853.

Department of State, Washington, January 3, 1853

The Secretary of State, to whom was referred the resolution of the Senate of the 30th ultimo, requesting the President "to communicate to the Senate, as far as may be compatible with the public interest, any information in the Department of State respecting the establishment of a new British colony in Central America, together with a copy of the proclamation, if received at the said Department, issued by the British authorities at the Belize, July 17, 1852, announcing that 'Her Most Gracious Majesty our Queen has been pleased to constitute and make the Islands of Roatan, Bonacca, Utilia, Barbarat, Heleue, and Morat, to be a colony, to be known and designated as the Colony of the Bay Islands,' and signed 'By command of Her Majesty's Superintendent, Augustus Frederick Gore, Colonial Secretary ;' and, also, what measures, if any, have been taken by the Executive to prevent the violation of that Article of the Treaty of Washington, of July 4, 1850, between the United States and Great Britain, which provides that neither party shall 'occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America,'" has the honour to report that no information, official or unofficial, of the character requested by the resolution has been received at this Department. A Consul of the United States was appointed for Belize, Honduras, on the 3rd of March, 1847, and the Minister of the United States at London was instructed by the Department to apply to the British Government for his exequatur. It appears, however, from the letter of the Department to him of the 1st of March, 1850, an extract from which is hereunto annexed, that his commission was revoked. As no successor has since been appointed, there has been no officer of this Government in that quarter from whom the information asked for in the resolution could be expected by the Department. The accompanying note from Mr. Clayton to Sir Henry L. Bulwer, of the 4th of July, 1850, which has an important bearing upon the inquiries contained in the resolution, is also laid before you.

Respectfully submitted,

(Signed) EDWARD EVERETT.

To the President of the United States.

In the absence thus of all information affecting this important subject at the Department of State, the Committee, through such unofficial sources as could be opened to them, have proceeded to inquire into the truth of the alleged establishment by Great Britain of a colony at the place indicated in the Bay of Honduras.

It appears, that during the past summer a proclamation in the name of the British Government was published and generally circulated through the British Settlements at Honduras Bay, and in the British West Indies, of which the following is a copy :

*"Proclamation.**"Office of the Colonial Secretary, Belize, July 17, 1852.*

"This is to give notice that Her Most Gracious Majesty the Queen has been pleased to constitute and make the Islands of Ruatan, Bonacca, Utilla, Barbarat, Helene, and Morat, to be a colony, to be known and designated as "The Colony of the Bay Islands.

"By command of Her Majesty's Superintendent,
(Signed) "AUGUSTUS FREDERICK GORE,
"Acting Colonial Secretary.

"God save the Queen!"

This proclamation would seem to bear all the marks of a genuine paper, was transferred to the public journals of this country, became immediately a subject of strong remark by the press, and in periodical publications of merit and character, and so far as the Committee are informed, the fact as proclaimed has never been contradicted.

Without assuming then that it is true, and that such a colony has been in fact established by authority of the Government of Britain, the Committee have, nevertheless, felt called on to proceed with their inquiry as if it were so.

The islands named in this proclamation form a cluster, differing in size and extent, but contiguous to each other, and lie near the coast of the Republic of Honduras, on the bay of that name. The principal one of this group we find thus spoken of by an accredited writer in a late American review :

"About thirty miles to the northward of the port of Truxillo, in the Republican State of Honduras, Central America, is an island called Roatan, sometimes Ruatan, and Rattan. It is about thirty miles long and nine broad, has a fine soil, healthful climate, a plentiful supply of good water, and, furthermore, two excellent harbours, each capable of containing a fleet. 'It may be considered,' says Alcedo, 'as the key of the Bay of Honduras, and the focus of the trade of the neighbouring countries.' 'This beautiful island,' says Macgregor, has an excellent harbour, easily defended, and is well adapted to the culture of cotton, coffee, and other tropical products.' And Captain Mitchell, of the British navy, adds, that 'the local position of this island seems one of importance in a commercial, and perhaps in a political point of view. It is the only place where good harbours are found on an extensive and dangerous coast;' and also 'that its proximity to Central America and Spanish Honduras seems to point it out as a good depot for English goods and manufactures, where they would find a ready market, even in opposition to any duties placed on them.' 'Roatan and Bonacca,' says another English author, Wright, 'in consequence of their fine harbours, good soil, pure air, and great quantities of animals, fish, and fruits, and commanding ground, are proverbially known in that part of the world as the 'garden of the West Indies, 'the key to Spanish America,' and a 'New Gibraltar.' From their natural strength they might be made impregnable, being tenable with very small force."

These islands, in common with numerous others adjacent to the coast, constituted, from their earliest discovery by Spanish navigators, parts of the Spanish dominions on the southern continent of America. It is true that, during the wars of the buccaneers in the last century, and in course of the irregularities and aggressions incident to that period, various of them, from time to time, came into the possession of England. But in the definitive Treaty of Peace between Spain and England, concluded at Versailles, September, 3, 1783, all claim and pretension of the latter Power to any of these islands was definitively renounced. By the terms of that Treaty a district of country on the mainland, between the Rivers Wallis, or Belize, and the Rio Hondo, was set apart, with liberty for British subjects to reside thereon, to cut and export dye-woods, &c., and reserving to Spain the "rights of sovereignty" over such district; and by Article VI, it is stipulated on the part of England that "all the English who may be dispersed on any other parts, whether on the Spanish continent or on any of the islands whatsoever dependent on the aforesaid Spanish continent, and for whatever reason it might be, without exception, shall retire within the district which has been above described in the space of eighteen months, to be computed from the

exchange of the ratifications ; and for this purpose orders shall be issued on the part of His Britannic Majesty," &c.

All the provisions of this Treaty relating to Spanish America were subsequently reaffirmed by the Convention between the same Powers, signed at London the 14th July, 1786, save that by Article IV the English were allowed "to occupy the small island known by the names of Casina, St. George's Key, or Cayo Casina, in consideration of the circumstance of that part of the coast opposite to the said island being looked upon as subject to dangerous disorders." "But" [the Treaty proceeds] "this permission is only to be made use of for purposes of real utility;" and it is further agreed that no fortifications shall be erected, and no troops stationed there by the English."

This island of Casina, or St. George's Key, lies off the mouth of the Belize river, a short distance from the coast.

Thus careful was the Government of Spain in securing its dominion over these islands as dependencies on its continental possessions ; and thus explicit was that of England in renouncing all pretensions of claim.

The Committee assume, then, as historically true, that the islands in question formed a part of the Spanish dominion in America at the time when the provinces adjacent declared and established their independence.

If any additional proof were wanting of this, it would be found in the constitution of the Spanish monarchy, adopted in 1812, in which it is declared that "Guatemala, with the internal provinces of the east and west, and the adjacent islands on both seas, form parts of the Spanish dominions."

The next inquiry which the Committee deem pertinent to the subjects referred to them, is to determine whether the islands named in this proclamation form a part of "Central America" within the terms of the Treaty concluded at Washington, April 19, 1850, between Great Britain and the United States.

In tracing the history of the Spanish possessions in this part of the American continent, they find that previous to the revolution which severed them from Spain, and for a long time anterior, the territory which has but recently assumed the title of "Central America" constituted a separate provincial Government, under the name of the "Kingdom or Vice-Royalty of Guatemala." This Vice-Royalty embraced the Provinces of Guatemala, San Salvador, Honduras, Nicaragua, and Costa Rica.

In the year 1821 the Province of Guatemala declared its independence and became a separate State, under the title of the "Republic of Guatemala." The other provinces of the old Kingdom or Vice-Royalty followed the example, and became the separate Republics of "Salvador," "Honduras," "Nicaragua," and "Costa Rica."

In 1824 these five Republics adopted a federal Constitution, and assumed a place in the family of nations as the United States of "Central America;" thus, for the first time, introducing that title as a political designation.

By Article V of this Constitution it is declared, that the territory of the Republic of Central America is the same which formerly composed the old Kingdom of Guatemala, with the exception of the Province of Chiapas.

In the *recopilacion* (compilation) of the laws of the Indies, the boundaries of the old Kingdom of Guatemala are thus given:—

"On the east by Audiencia of Tierra Firme, or the Escudo de Veragua (the western province of New Grenada, on the Isthmus of Panamá); on the west by Mexico, or New Spain; by the Atlantic on the north; and by the Pacific on the south."

Thus, geographically, the boundaries of what subsequently became the Confederation of "Central America" are clearly ascertained. They are those of the old Vice-Royalty of Guatemala, and embrace the five Republics named above, with all the insular dependencies which pertained to them whilst under the dominion of Spain.

The "Bay Islands," as they are termed in the proclamation of the Superintendent at Belize, lie adjacent to the coast of the Republic of Honduras, from which they are distant about thirty miles, and are claimed by that Republic as part of her territory; nor, as far as the Committee are informed, is this questioned by any of the adjoining States. But it appears that the authorities of Her Britannic Majesty at Belize, on the Bay of Honduras, have, from time to time, asserted claims to the Island of Ruatan, and perhaps those contiguous, but under what pretence, or with what ulterior views, the Committee are left only to

conjecture. Certain it is that such claim, whenever asserted, has been strenuously resisted by the Republic of Honduras.* Yet as such pretensions seem always to have emanated from these authorities at the "Belize" (as does the "proclamation"), the Committee have deemed it relevant and of no little interest, to ascertain the political character of the British Settlements in that quarter.

A perusal of the Treaties, already referred to, between Spain and England, of 1783 and 1786, furnishes a full and authentic history of the true character of these Settlements; nor are the Committee aware that such character has been altered or affected in any manner since their date.

By the terms of those Treaties, English subjects were allowed to occupy a tract of country within the Spanish dominions, for the purposes specifically mentioned in the Treaties.

The recitals in the Treaties show that Spain reluctantly yielded to English subjects a privilege they had theretofore lawlessly assumed, of cutting dye-woods in the swamps and on the rivers of Spanish America. But the stipulations show that Spain was, nevertheless, sedulous and guarded to preserve unquestioned her sovereignty and dominion over the territory conceded to such occupancy; nor does it appear to have been contemplated that even this limited territory should be in the exclusive possession of the English; for by the VIIth Article of the Treaty of 1786, it is provided that the inhabitants shall "occupy themselves simply in cutting and transporting the said wood," &c., "without meditating any more extensive Settlements, or the formation of any system of government, further than such regulations as their Britannic and Catholic Majesties may hereafter judge proper to establish, for maintaining peace and good order amongst their respective subjects."

To exhibit correctly the actual character and condition of these English Settlements, the Committee annex the following extracts from the Treaties referred to:—

Extracts from Article VI of the "Definitive Treaty of Peace between Great Britain and Spain," signed at Versailles, September 3, 1783.

The intention of the two High Contracting Parties being to prevent, as much as possible, all the causes of complaint and misunderstanding heretofore occasioned by the cutting of wood for dyeing, or logwood; and several English Settlements having been formed and extended, under that pretence, upon the Spanish continent, it is expressly agreed that His Britannic Majesty's subjects shall have the right of cutting, loading, and carrying away logwood in the district lying between the Rivers Wallis, or Belize, and Rio Hondo, taking the course of the said two rivers for unalterable boundaries, so as that the navigation of them be common to both nations; to wit, by the River Wallis or Belize, from the sea, ascending as far as opposite to a lake or inlet which runs into the land and forms an isthmus or neck, with another similar inlet, which comes from the side of the Rio Nuevo or New River, so that the line of separation shall pass straight across the said isthmus and meet another lake formed by the water of the Rio Nuevo or New River at its commencement. The said line shall continue with the course of Rio Nuevo, descending as far as opposite to a river, the source of which is marked in the map between Rio Nuevo and Rio Hondo,

* Amongst the latest of these aggressions, it is said that in 1830 the Island of Roatan was seized by authority of the British Superintendent at Belize, but, on complaint by the Federal Government of Central America, the act was formally disavowed by the British Government, and the island restored to the authorities of the Republic. In 1841, however, this island was again violently taken possession of by Colonel McDonald, then Her Majesty's Superintendent at Belize, in person, accompanied by a small body of men, in a Government schooner. It was found in charge of a sergeant and a few soldiers belonging to the State of Honduras, who were driven off, the flag of Honduras hauled down, and the British flag hoisted in its place. The result is given in the words of the author, from whom the foregoing account is derived:

"No sooner had they reembarked than they had the mortification of seeing the union-jack replaced by the blue and white stripes of Honduras, for which it had just before been substituted; and returning once more, they completed the inglorious revolution by taking such precautions and making such threats as they thought necessary.

"Since this act of annexation the island has been under British control, and a considerable number of settlers have been located upon it."—"The Gospel in Central America," by Frederick Crowe; published in London, 1850.

and which empties itself into Rio Hondo ; which river shall serve as a common boundary as far as its junction with Rio Hondo, and from thence descending by Rio Hondo to the sea, as the whole is marked on the map which the Plenipotentiaries of the two Crowns have thought proper to make use of for ascertaining the points agreed upon, to the end that a good correspondence may reign between the two nations, and that the English workmen, cutters, and labourers may not trespass from an uncertainty of the boundaries. * * *

* * * Provided, That these stipulations shall not be considered as derogating in any wise from his rights of sovereignty.

Extracts from the " Convention between Great Britain and Spain, relative to America," signed at London, July 14, 1786.

ARTICLE I.

His Britannic Majesty's subjects, and the other colonists who have hitherto enjoyed the protection of England, shall evacuate the country of the Mosquitos, as well as the continent in general, and the islands adjacent, without exception, situated beyond the line hereinafter described as what ought to be the frontier of the extent of territory granted by His Catholic Majesty to the English, for the uses specified in the third Article of the present Convention, and in addition to the country already granted to them in virtue of the stipulations agreed upon by the Commissaries of the two Crowns in 1783.

ARTICLE II.

The Catholic King, to prove on his side to the King of Great Britain the sincerity of his sentiments of friendship towards His said Majesty and the British nation, will grant to the English more extensive limits than those specified in the last Treaty of Peace ; and the said limits of the lands added by the present Convention shall, for the future, be understood in the manner following : The English line, beginning from the sea, shall take the centre of the River Sibun or Jabon, and continue up to the source of the said river ; from thence it shall cross in a straight line the intermediate land till it intersects the River Wallis ; and by the centre of the same river the said line shall descend to the point where it will meet the line already settled and marked out by the Commissaries of the two Crowns in 1783, which limits, following the continuation of the said line, shall be observed as formerly stipulated by the definitive Treaty.

ARTICLE III.

* * * But it is expressly agreed that this stipulation is never to be used as a pretext for establishing in that country any plantation of sugar, coffee, cocoa, or other like articles, or any fabric or manufacture by means of mills or other machines whatsoever ; (this restriction, however, does not regard the use of saw-mills for cutting, or otherwise preparing the wood ;) being indisputably acknowledged to belong of right to the Crown of Spain, no settlements of that kind, or the population which would follow, could be allowed. The English shall be permitted to transport and convey all such wood and other produce of the place, in the natural uncultivated state, down the rivers to the sea, but without ever going beyond the limits which are prescribed to them by the stipulations above granted, and without thereby taking an opportunity of ascending the said rivers beyond those bounds into the countries belonging to Spain.

ARTICLE IV.

* * * The English shall be permitted to occupy the small island known by the name of Cassina, St. George's Key, or Cayo Casina, in consideration of the circumstance of that part of the coasts opposite to the said island being looked upon as subject to dangerous disorders ; but this permission is only to be made use of for purposes of real utility ; and as great abuses, no less contrary to the intentions of the British Government than to the essential interests of Spain, might arise from this permission, it is here stipulated, as an indispensable condition, that no fortification, or work of defence whatever, shall

at any time be erected there, nor any body of troops posted, nor any pieces of artillery kept there.

ARTICLE VII.

All the restrictions specified in the last Treaty of 1783, for the entire preservation of the right of the Spanish sovereignty over the country, in which is granted to the English only the privileges of making use of the wood of different kinds, the fruits and other produce in their natural state, are here confirmed; and the same restrictions shall also be observed with respect to the new grant. In consequence, the inhabitants of those countries shall employ themselves simply in the cutting and transporting of the said wood, and in the gathering and transporting of the fruits, without meditating any more extensive settlements, or the formation of any system of Government, either military or civil, further than such regulations as their Britannic and Catholic Majesties may hereafter judge proper to establish for maintaining peace and good order amongst their respective subjects.

ARTICLE VIII.

As it is generally allowed that the woods and forests are preserved, and even multiply, by regular and methodical cuttings, the English shall observe this maxim as far as possible; but if, notwithstanding all their precautions, it should so happen, in course of time, that they were in want of dyeing wood or mahogany, with which the Spanish possessions might be provided, the Spanish Government shall make no difficulty to furnish a supply to the English at a fair and reasonable price.

ARTICLE XI.

Their Britannic and Catholic Majesties, in order to remove every kind of doubt with regard to the true construction of the present Convention, think it necessary to declare that the conditions of the said Convention ought to be observed, according to their sincere intention, to insure and improve the harmony and good understanding which so happily subsist at present between their said Majesties.

In this view His Britannic Majesty engages to give the most positive orders for the evacuation of the countries above mentioned by all his subjects, of whatever denomination; but if, contrary to such declaration, there should still remain any persons so daring as to presume, by retiring into the interior country, to endeavour to obstruct the entire evacuation already agreed upon, His Britannic Majesty, so far from affording them the least succour, or even protection, will disavow them in the most solemn manner, as he will equally do those who may hereafter attempt to settle upon the territory belonging to the Spanish dominions.

In view of these stringent stipulations thus solemnly contracted, and reaffirmed on the part of the British Government, the Committee are clear in their opinion that the English Settlements on the Belize have no *political* character whatsoever. The sovereignty and dominion of Spain over the whole territory was preserved unimpaired by these concessions. Nothing was yielded but what publicists term the "useful domain," and that only for certain restricted and limited purposes.

Such were the relations between the two Powers of Spain and England, when the provinces composing the old Kingdom of Guatemala established their independence; and it remains to inquire whether, and to what extent, this special occupancy on the part of England was altered or otherwise affected in its character by this change of Government.

It is held as an undoubted principle, that, when one political community separates itself from another by successful revolt, assumes the form, and declares itself to the world, as a separate and independent Power or State, and so maintains itself, that such Power or State thereby becomes a Sovereign within its lawful or prescribed limits. And by the established usage of nations, such pre-existent sovereignty is to be recognised by other nations as a common duty, whenever the new Power shall have exhibited satisfactory proof that it is, in fact, independent, and is capable of so sustaining itself. At the time when the

people of Guatemala declared their independence, the King of Spain was the depositary of the sovereign power over the entire province, embracing these English Settlements. And, by the act of separation, the people of Guatemala became necessarily invested with the whole sovereignty thus pertaining to the Monarch. The revolution, in fact, did nothing more than to transfer the sovereignty: and it would follow that the sovereign power thus transferred came to the people unimpaired.

Thus, whatever rights England may have held in subordination to the old sovereignty of the Monarch, would now be held in like subordination to the new sovereignty of the people. The mere change of Government effected by the revolution clearly could not enlarge existing rights of foreigners within the country revolutionized. It may much more be questioned whether it did not impair or abrogate them.

But the Committee deem it unnecessary to pursue this inquiry. All they seek to establish is, that by the revolution, the Republic of Guatemala was remitted, over its whole territory, to the same sovereignty which, anterior thereto, was acknowledged in Spain: and, of consequence, that sovereignty, or the "high domain," over so much of the territory of Guatemala, as under former Treaties was in the occupancy of British subjects, now resides in the people, or the Republic of Guatemala, as, theretofore, it was acknowledged by England to reside in the Monarch of Spain. The Committee find the same view as to the transfer of sovereignty over the territory occupied by the British Settlements at Belize, taken by the late able Secretary of State, Mr. Webster, in 1841.

In a letter addressed by him to William S. Murphy, Esq., special and confidential agent of the United States to Central America, dated 6th August of that year, they find the following:—

"In 1835, the Government of Central America asked for the mediation of this Government with that of Great Britain, with the view to restrain the British settlers at Belize, in Honduras, from trespassing upon territory beyond the confines allotted to them by the Treaties between Great Britain and Spain, in regard to that Settlement; *Central America*, so far as its territory was embraced by the limits mentioned in those covenants, *having, of course, succeeded to all the rights of Spain.*"

The Confederation of "Central America" was dissolved in 1839, and thenceforth each of the five States composing it became a separate and independent Power, and are so held and treated by the United States, and, it is believed, by all European Powers. Even Spain has contracted Treaties with two of them, that is to say, with Nicaragua and with Costa Rica; the others, as the Committee are informed, not having yet sent Ministers to that Power.

The Committee, so far, have conducted the inquiry upon the assumption that these British Settlements on the Belize, lie altogether within the territory of the Republic of Guatemala. They are, however, aware that this assumption may not pass unquestioned. In the Treaty between Great Britain and Mexico, signed at London, December 26, 1826, it would seem, from expressions contained in the fourteenth Article, that it was considered between those two Powers, these Settlements might be, in whole or in part, within the limits of Mexico, in the State or Province of Yucatan. And by some of the European geographers (not Spanish) they are spoken of as in Yucatan. From the best sources of information, however, open to the Committee, they have formed a decided opinion that the boundaries allotted to these Settlements by the Treaties of 1783 and 1786, before referred to, lie within the Republic of Guatemala.

In the year 1822, one year after Guatemala had declared its independence, that State, together with Salvador and Honduras, were overpowered by Iturbide, then *Emperor* of Mexico, and annexed to the Mexican Empire. But this connexion was a short one; for Iturbide, then declining in power, was unable to maintain the conquest; and in the following year, the three States named, succeeded in shaking off the Mexican yoke, and entered into preliminary arrangements with the southern Republics of Nicaragua and Costa Rica, for a confederacy, which was completed and proclaimed in 1824. The province of Chiapa alone, which had formerly pertained to Guatemala, adhered to Mexico, and remained a part of the Empire, as it is now of the Mexican Confederation. What pretensions Mexico may have set up (if any) affecting the boundaries of

Guatemala, so as to embrace the settlements at Belize, in consequence of this short and violent connexion, the Committee are not aware ; but certain it is they were never acceded to by Guatemala.

It is well known that the actual boundaries between most of these Spanish provinces have never been definitively settled ; yet they may be proximately ascertained, by reference to mountains and rivers, or to actual occupancy. The Rio Hondo, is, by treaty with Spain, the northern limit assigned to the English settlers ; that river, it is claimed by Guatemala, lies wholly within its territory. In a work entitled "A Descriptive, Historical, and Geographical Account of the Dominions of Spain" in the Western Hemisphere, by R. H. Bonnycastle, Captain in the Corps of Royal Engineers, published in London in 1818, *Vera Paz*, which is the northern and western province of Guatemala, is bounded as follows :—"On the north by the Provinces of Chiapa and Yucatan ; on the east by Honduras and the Bay or Gulf of Honduras ; on the south by Guatemala (an interior department so named) ; and on the west by the Saine and Chiapa," vol i, pages, 165, 166 ; and on the map which accompanies the volume, although on too small a scale distinctly to mark the boundaries, the River Wallis or Belize would appear marked in the Province of Vera Paz. Again, in an atlas published in Guatemala, entitled "An Atlas of Guatemala, in eight maps, prepared and engraved in Guatemala by order of the Chief of the State, C. D. Mariano Galves," in 1832, the northern and western boundary of Guatemala, although called "lindero indefinido" (line undefined) is thrown north of the Rio Hondo, which river, both on the map of the Republic of Guatemala, and on that of the Department of Vera Paz contained in the atlas, is altogether within the limits of Vera Paz. This atlas has been published in a work entitled "Historical Sketch of the Revolutions of Central America from 1811 to 1814," by Alejandro Marure, Professor of History and Geography in the Academy of Sciences of the State of Guatemala, &c., &c., in 1837, by whom it was compiled. And the Committee are informed that on the official map of Yucatan, subscribed by Señor Negra, as Commissioner of that province, published in 1848, the southern boundary of that State is established on the parallel of eighteen degrees north latitude. If this be so, then, according to the atlas of Señor Marure, the Rivers Belize and Jupon or Sipon (the latter of which is the southern limit of the British Settlements), as well as part of the Rio Hondo, are within the Province of Vera Paz.

In 1834, the State of Guatemala made a large grant of land to a company, on condition of actual settlement "in the neighbourhood of the Bay of Honduras," when the British authorities at Belize interposed and forbade the settlement, claiming that the grant was within their boundaries. This collision led the Government of Central America to make it the occasion of a Special Commission to England, to settle and adjust the respective rights of the Republic of Guatemala and of Great Britain in reference to the British Settlements in this quarter. This fact was communicated to the Government of the United States by M. Alvarez, Secretary for Foreign Affairs of the Central American Confederation, in a despatch to the Secretary of State, dated December 30, 1834 ; and the good offices of this Government with the British Court, were solicited in the proposed negotiation. In that despatch, the Secretary of State, reminded of the avowed policy of this Government concerning European colonization on the American continents, is referred "to the aggressions and encroachments at Belize upon the territory of Central America." The mission, it appears, was fruitless. The British Government, claiming that Don Juan Galindo, the Minister, was a British subject by birth, refused to accredit him as the Minister of Central America. In one of the letters of this Minister, Don Galindo, whilst in Washington, to the Secretary of State, dated June 3, 1835, he communicates a paper prepared and published in Guatemala by Señor Annitia, a member of the Federal Congress of Central America for the State of Guatemala, in which, reciting that the English Settlements "between the Rio Hondo and the Belize are in our territory," an able and forcible exposition is made of the injury resulting to Central America, by the smuggling openly carried on at the Belize, in defiance of the revenue laws of the Confederation ; and a strong remonstrance against the pretension of the authorities there, claiming a right to occupy as they held in 1821 (the date of the Revolution) and regardless of the Treaty limits with Spain. In the letter of the Minister for Foreign Affairs, before referred to, this encroachment is stated at more than forty-five leagues.

This question of boundary is one to be eventually adjusted only by the States and Governments territorially interested in it. The concern of the United States is only as it may affect stipulations with Great Britain, under the Treaty of 1850. And, independent, therefore, of the authorities above cited, respect for the Republic of Guatemala would require of this Government to recognise the boundaries she has prescribed for herself, at least until they are successfully controverted by those territorially interested. What is now the extent of claim or pretension on the part of Great Britain, either in regard to territory or dominion on the Gulf of Honduras, the Committee have been unable satisfactorily to ascertain. In the unsettled condition of the country pending hostilities between Spain and the Colonies, it is very manifest that, whether with or without the sanction of the British Government, the settlers there pushed their occupancy far beyond the southern limits assigned to them by Treaty; and it now appears that a right is asserted to maintain such occupancy as it stood in 1821, when the Colonies were dismembered from Spain. These are questions properly belonging to the respective Powers who claim on the one hand, or contest on the other—that is to say, to Great Britain and Guatemala.

But the question of “dominion” is of a different character, and is one in the disposition of which this Government can never be indifferent. Whether it shall ultimately be determined that the English Settlements on the Honduras are in Mexico or Guatemala, this question remains the same as regards the United States; and as connected with their inquiry, the Committee have considered it incumbent to express an opinion as to the character of the tenure by which those Settlements are enjoyed by British subjects.

The anomalous character of these English Settlements is well illustrated by the legislation of Great Britain concerning them. In the British statutes presently referred to, it is clearly admitted by Parliament itself, that they are not within the “dominions” of Great Britain; and it was found necessary to provide by special legislation for the punishment of crimes committed there by British subjects.

In 1817, the fifty-seventh year of the reign of George III, a statute was enacted, entitled “An Act for the more effectual punishment of murders and manslaughter committed in places not within His Majesty’s dominions.”

The first section of which recites that—

“Whereas grievous murders and manslaughters have been committed at the Settlement in the Bay of Honduras, in South America, the same being a Settlement for certain purposes, in the possession and under the protection of His Majesty, but not within the territory and dominion of His Majesty, by persons residing and being within the said Settlement.”

And whereas “such crimes and offences do escape unpunished by reason of the difficulty of bringing to trial the persons guilty thereof.” And it enacts “that, from and after the passage of this Act, all murders and manslaughters committed, or that shall be committed on land, at the said Settlement in the Bay of Honduras, by any person or persons residing or being within the said Settlement,” &c., “shall and may be tried and punished in any of His Majesty’s islands, plantations, colonies, dominions, forts, or factories, under and by virtue of the King’s commissions, which shall have been or shall hereafter be issued,” &c.

But this Act, it seems, could not be carried into effect at the Belize, because it was found that there was no island there *in the dominion* of His Majesty, nor “*plantation, colony, dominion, fort, or factory*,” to which the King’s commission could be directed; and of consequence it was found necessary, by an amendatory Act, passed in 1819 (59 Geo. III), to substitute a Special Tribunal, created thereby, at Belize, for trial of such offences; the same being rendered necessary, as recited in the Act, because “of the great delay and difficulty of removing offenders in Honduras, for trial in England, to *any* of His Majesty’s islands, plantations, colonies, forts, or factories, such crimes do oftentimes escape unpunished.”

These statutes clearly show that so late as 1819 the Parliament of England did not claim or recognise the English Settlements at Belize, as being within the *dominion* of Great Britain; and, secondly, that England had no established authority there, even of the grade of plantation, fort, or factory.

The distinction between the “high” and the “useful” domain is fully recognised by all the publicists. It is said by Vattel (chapter vii, section 83), that “the useful domain, or the domain confined to rights that may belong to any individual in the State, may be separate from the sovereignty; and nothing

prevents the possibility of its belonging to a nation in places that are *not under her jurisdiction*. Thus, many Sovereigns have fiefs and other possessions in the territories of another Prince; in these cases, they possess them in the manner of private individuals."

Neither can Great Britain claim that her rights in these "Settlements" have been enlarged, or her dominion improved, by what the writers term "usucaption" or "prescription." Acquisitions of the latter character are founded on a presumed abandonment or desertion of a former Sovereign, and by great lapse of time may be ripened into full or "high domain." But they are, in their very nature, of a character adversary to any other claim—they take their origin in a negation of title, existing elsewhere. In the case in question, the possession of Great Britain is directly referred to a full acknowledgment of domain, or sovereignty, in another Power. The character of this possession has never been altered or enlarged, either by contract or adversary pretension; and it thence necessarily results that, after whatever lapse of time, it is still to be held to its original subordinate condition.

The Committee next proceeded, as instructed by the Resolution of the Senate, to inquire "whether any measure, and if any, what, should be taken by the Senate, in relation to the declaration annexed to the ratification on the part of Great Britain, of the Treaty concluded between that country and the United States, April 19, 1850, and to the letter of the Secretary of State to the British Minister on the exchange of ratifications."

By the Treaty referred to, it is stipulated by both the Contracting Parties, that neither of them shall "occupy, or fortify, or colonize, or assume, or exercise, any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America." Under the restrictions as they are above expressed, and without anything elsewhere in the Treaty to explain, qualify, or alter them, the Treaty was ratified by the Senate.

On the 29th of June in the same year, the British Minister at Washington, as preliminary to the exchange of ratifications, delivered, officially, to the Secretary of State, the "declaration" referred to in the Resolution of the Senate; in which it is set forth, that he has received Her Majesty's instructions to declare, that "Her Majesty does not understand the engagements of that Convention to apply to Her Majesty's Settlement at Honduras, or to its dependencies. Her Majesty's ratification of said Convention is exchanged under the explicit declaration above mentioned."

And on the 4th of July following, the Secretary of State addressed an official note to the British Minister at Washington, acknowledging the receipt of this "declaration," in which he says:

"The language of the first Article of the Convention concluded on the 19th day of April last, between the United States and Great Britain, describing the country not to be occupied, &c., by either of the parties, was, as you know, twice approved by your Government; and it was neither understood by them, nor by either of us (the negotiators), to include the British Settlement in Honduras (commonly called British Honduras, as distinct from the State of Honduras), nor the small islands in the neighbourhood of that Settlement which may be known as its dependencies. To this Settlement, and these islands, the Treaty we negotiated was not intended by either of us to apply. The title to them it is now, and has been my intention throughout the whole negotiation, to leave, as the Treaty leaves it, without denying, affirming, or in any way meddling with the same, just as it stood previously. The Chairman of the Committee on Foreign Relations of the Senate, the Honourable William R. King, informs me that "the Senate perfectly understood that the Treaty did not include British Honduras." It was understood to apply to, and does include, all the Central American States of Guatemala, Honduras, San Salvador, Nicaragua, and Costa Rica, with their just limits and proper dependencies. The difficulty that now arises seems to spring from the use in our Convention, of the term 'Central America,' which we adopted because Viscount Palmerston had assented to it and used it as the proper term—we naturally supposing that, on this account, it would be satisfactory to your Government: but if your Government now intend to delay the exchange of ratifications until we shall have fixed the precise limits of Central America, we must defer further action until we have further information on both sides, to which at present we have no means of resort, and which it is certain we could not obtain before the term fixed for exchanging the ratifications would

expire. It is not to be imagined that such is the object of your Government; for not only would this cause delay, but absolutely defeat the Convention.

Of course no alteration could be made in the Convention, as it now stands, without referring the same to the Senate; and I do not understand you as having authority to propose any alteration. But, on some future occasion, a Conventional Article, clearly stating what are the limits of Central America, might become advisable."

Under the reclamation contained in this declaration on the part of the British Government, and in the reply contained in the note of the Secretary of State, the ratifications were exchanged on the 4th July, 1850, and on the next day a memorandum having reference thereto was filed by the Secretary in his Department, in the following words:—

"Memorandum.

"Department of State, Washington, July 5, 1850.

"The within declaration of Sir H. L. Bulwer was received by me on the 29th day of June, 1850. In reply, I wrote him my note of the 4th of July, acknowledging that I understood British Honduras was not embraced in the Treaty of the 19th day of April last, but at the same time carefully declining to affirm or deny the British title in their Settlement or its alleged dependencies. After signing my note, last night, I delivered it to Sir Henry, and we immediately proceeded, without any further or other action, to exchange the ratifications of said Treaty. The consent of the Senate to the declaration was not required, and the Treaty was ratified as it stood when it was made.

(Signed) "JOHN M. CLAYTON.

"N.B.—The rights of no Central American State have been compromised by the Treaty or by any part of the negotiations."

The terms of this declaration on the part of the British Government are full and explicit, and would seem intended to reserve the territory mentioned from the operation of the Treaty: that is to say, if "Her Majesty's Settlement at Honduras or its dependencies" did in fact form "part of Central America," then the Treaty is to be so construed by the declaration as to exclude them from it.

The reply of the Secretary is amplified beyond the simple and precise meaning of the declaration. He says: "To this Settlement and these islands (the alleged dependencies) the Treaty we negotiated was not intended by either of us to apply."

Although the terms used by the Secretary would seem to be coextensive with those in the declaration, yet the meaning he gives them is clearly developed in what immediately follows, by which he strictly confines them to the "title" only. He says, in substance, that nothing contained in the Treaty was intended, in any way, to affect the title, whatever it might be, of Great Britain to those possessions. It was not to be affirmed or disaffirmed, but was to remain precisely where the Treaty found it. In further development of this meaning the Secretary proceeds: "The difficulty that now arises seems to spring from the use in our Convention of the term 'Central America,'" &c. "But if your Government now intends to delay the exchange of ratifications until we shall have fixed the precise limits of Central America, we must defer further action until we have further information on both sides," &c.

And again: "Of course no alteration could be made in the Convention, as it stands, without referring the same to the Senate: and I do not understand you as having authority to propose any alteration. But, on some future occasion, a Conventional Article, clearly stating what are the limits of Central America, might become advisable."

It thus appears to the Committee that the British Government required, as a condition to exchange of ratifications, an acknowledgment on the part of this Government that none of the "engagements" of the Convention were to apply to their Settlements at Honduras—that is to say, as to "colonising," "occupying," "fortifying," &c. This was declined by the Secretary of State; but he admitted that nothing in the Convention was to be considered as affecting the "title" of Great Britain to her possessions in that quarter, which was simply to remain unprejudiced by the Treaty.

The geographic position of these Settlements, and whether they are or are

not in "Central America," is left entirely an open question, so far as this letter of the Secretary is concerned. It affirms only that, wherever they be, the Treaty is to have no effect upon the "title." And on this head he further explains himself, that if the British Government means by its "declaration" to require a committal as to the precise limits of Central America, that could only be effected by an alteration of the Treaty, and a further reference to the Senate; yet as it might become necessary at a future day for the two Governments to determine those limits, he suggests that it had better be left to a future "Conventional Article."

What occasion was there to determine the limits of Central America, but to settle the question whether these British possessions were or were not within them; and thus whether the engagements of the Treaty did or did not apply to them; and to do this, the Secretary informed the Minister of England, would require an alteration of the Treaty, and a further reference to the Senate.

In this posture of the question made by the British "declaration," ratifications were formally exchanged by the British Plenipotentiary, constituting a substantial waiver, or a reference to future negotiations of all that was not conceded by the Secretary's note. And the Committee therefore conclude, that the Treaty remains unembarrassed in its operations by anything that intervened between its ratification by the Senate, and its consummation by exchange of ratification, except so far as the "title" of Great Britain at the Belize may be concerned. Whether by fair and legitimate construction, the text of the Treaty would annul or impair this title, and, in such case, what weight or efficiency should be ascribed to the concession of the Secretary of State, are questions which, in the opinion of the Committee, it will be proper to consider only when they shall arise between the two Governments.

On the whole, the Committee therefore report, as their opinion, to the Senate—

That the Islands of Roatan, Bonacca, Utila, Barbarat, Helené, and Morat, in and near the Bay of Honduras, constitute part of the territory of the Republic of Honduras, and therefore form a part of Central America; and, in consequence, that any occupation or colonization of these Islands by Great Britain, would be a violation of the Treaty of the 19th of April, 1850.

The Committee, from the information before them, entertain a decided opinion that the British Settlements at Belize, as defined by Treaties with Spain, lie within the territory of the Republic of Guatemala, and so equally constitute a part of Central America. Should such be the fact, whilst the Committee are not prepared to say that the engagements of the Treaty of 1850 would require that those Settlements shall be abandoned and discontinued on the part of Great Britain, yet this Government would have just cause of complaint against any extension of the limits of these Settlements beyond those prescribed by Spain, or as further allowed by the Republics where they may be found; and that in any manner to enlarge or change the character of those Settlements, by any mode of jurisdiction, would be in violation of said Treaty.

And in the event of its being ascertained hereafter, that these British Settlements on Honduras Bay lie, in whole or in part, north and west of the proper boundaries of Guatemala, though they would not in such case form any part of Central America, and thus not within the strict engagements of the Treaty; yet that any Colonies, or other permanent establishments there by Great Britain, or any European Power, must necessarily excite the most anxious concern of this Government, and would, if persisted in, lead to consequences of most unpleasant character.

On the resolution of the Senate referred to the Committee, they report the following:—

"Resolved (as the opinion of the Committee),—That the declaration on the part of the British Government, and the reply thereto by the Secretary of State, as preliminary to the exchange of ratifications of the Treaty concluded at Washington, between the Governments of Great Britain and the United States, on the 19th April, 1850, import nothing more than an admission on the part of the two Governments, or their functionaries, at the time of such exchange, that nothing contained in the Treaty was to be considered as affecting the title or existing rights of Great Britain to the English Settlements in Honduras Bay.

"And, consequently, in the opinion of the Committee, that no measures are necessary on the part of the Senate, to be taken because of such Declaration and reply."

No. 155.

Mr. Crampton to Lord John Russell.—(Received March 29.)

(Extract.)

Washington, March 13, 1853.

I STATED to the Earl of Malmesbury in my despatch of the 16th of January last,* that an attack had been made in the Senate of the United States by General Cass upon Mr. Clayton, in reference to the ratification of the Treaty of April 19, 1850.

Mr. Clayton has lately been elected Senator for the State of Delaware, and he has taken the opportunity afforded by the extra session of the Senate, commenced on the 4th of March last, to make a defence of his conduct in a very elaborate and able speech.

Mr. Clayton's speech is considered by the more reasonable portion of Congress to contain a complete disproof of the charge brought against him of having attempted to mislead the Senate in regard to the declaration on the part of Her Majesty's Government by which their ratification of the Treaty in question was accompanied, as well as a vindication of the policy of the Government of the United States in regard to it.

No. 156.

Mr. Crampton to the Earl of Clarendon.—(Received April 4.)

My Lord,

Washington, March 21, 1853.

I HAVE the honour to inclose a copy of a letter which I have received from Mr. Vice-Consul Foote, dated the 18th ultimo, describing the state of things at Greytown; and I have also the honour to inclose an extract from a newspaper, bringing intelligence of a somewhat later date from which your Lordship will perceive that the acts of violence on the part of the Municipality, anticipated by Mr. Foote, have actually taken place.

These collisions, although the parties engaged in them on either side consist, for the most part, of American citizens, are to be deplored as giving rise to discussions here upon questions in regard to which Her Majesty's Government and that of the United States are known to hold conflicting opinions; and these discussions are apt, as your Lordship will have observed from my late reports, in the present temper of certain parties in the American Senate, to assume an angry character.

Under these circumstances, I have thought it my duty to address to Mr. Foote a letter, a copy of which I have the honour to inclose, inculcating on him the expediency of using his best endeavours to bring such questions to an amicable decision.

The French Minister here, Count de Sartiges, has requested me to invoke the protection of the Agents of Her Majesty's Government at Greytown for certain French subjects, who have addressed to him a complaint against the arbitrary proceedings of the Municipality, by whom they state they were forced, under threats of punishment, to take part in acts of violence of which they disapproved.

I informed M. de Sartiges that, although the Mosquito Government was protected by Her Majesty's Government from external aggression, Her Majesty's Government did not consider themselves at liberty to do any act implying dominion or sovereignty over that territory. I said, however, that I would willingly request the friendly intervention of Her Majesty's Consul in favour of the complainants, and request him to point out to the authorities of Greytown the responsibility which they incurred by proceedings of so violent and illegal a character.

M. de Sartiges informed me that he had written to the senior officer of

the French naval forces in the West Indies, inviting him to take measures for the protection of French subjects at Greytown.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 156.

Acting Consul Foote to Mr. Crampton.

(Extract.)

Greytown, February 18, 1853.

I HAVE taken advantage of the present opportunity to report to you that a rather sudden determination on the part of the citizens of this town to compel the agents of the Accessory Transit Company to evacuate their position on the opposite side of this harbour, has caused no little uneasiness throughout the community.

So that you may understand the circumstances connected with this affair more clearly, I must inform you that, early in the year 1851, upon application being made by a temporary agent of the Company, a spot of land 200 feet wide by 400 deep was leased to the Company (to be used expressly for a coal depôt) at a nominal rent. It was further stipulated that, upon requisition from the Mosquito Government, the land should be at once given up for the purposes of the said Government.

Immediately afterwards, however, a new agent was appointed to look after the interests of the Company. This gentleman commenced making a permanent depôt on the spot in question, gradually extending his operations until stores and buildings of various kinds had been erected.

In the meanwhile, the Mosquito authorities, having fixed upon this ground as the most eligible for a quarantine ground, and also seeing the injury likely to accrue to the business of Greytown should stores and hotels be erected on the spot referred to, warned the Company, previous to the extension of their operations, to vacate these lands, at the same time calling their attention to the nature of the lease.

That Company, in reply, defied the authorities, declared that they received their right to occupy these lands from the State of Nicaragua, and that they had a full right to do so anywhere in the Port of San Juan.

Lately, however, the conduct of the agents has been such that the existing authorities (whose jurisdiction extends as the *de facto* authorities over the disputed point), denying the right of Nicaragua to grant any lands or privileges while an adverse party is still in possession of the sovereignty, have determined, after repeated remonstrances, to expel them; and, accordingly, thirty days' notice for the entire removal of their establishment has been served on them, while at the same suitable land has been offered them on the town side, and every assistance to be given them in removing. Should they not comply, the houses will be pulled down.

Her Majesty's ship "Geyser" is now here, and, conjointly with her commander, I have endeavoured to mediate between the parties, but the deep injury done to the business men by the formation of mercantile establishments, hotels, &c., by the Company's agents, the occupation of lands free of taxes, of cost, or any municipal restrictions (they having refused to recognize the *de facto* authorities), they will not listen to any mediation.

Captain Wilson agrees with me in thinking that the people have had much to irritate them, the more particularly as, without a single exception, they have complied cheerfully with the wishes of the two Governments of Great Britain and the United States in acknowledging and upholding the *de facto* Government while negotiations are pending for the future settlement of the sovereignty.

They are proceeding to swear in special constables, and already 150 citizens have come forward, counting among their numbers the oldest residents and people of all nations. I have done all I could, privately, to prevent any acts of violence, and to a certain extent have succeeded.

Mr. Green is at present at Blewfields, engaged in looking into the affairs of Limas, a mahogany station on this side the Roman River, which had been

lately occupied by the troops of Honduras, but by this time, I believe, recovered for Mosquito. For this reason I have ventured to write to you privately, so that you may receive a report of these transactions, as I am aware of the commercial agent of the United States writing to his Government on the subject.

Inclosure 2 in No. 156.

Extract from the "National Intelligencer" of March 17, 1853.

New Orleans, March 15.—The difficulty between the citizens of San Juan, or Greytown, and the Vanderbilt Nicaragua Transit Company is becoming quite serious. The depôt of the Transit Company is located on a point across the river from Greytown, and at the depôt the company has stores, with supplies of all descriptions, which are furnished to the passengers going either way, thus completely monopolizing this branch of trade, and cutting off the citizens of the town from all participation in its benefits. Numerous complaints have been made, which were unheeded, and the citizens becoming exasperated, threatened that unless the depôt was removed to Georgetown, open warfare would be resorted to to check the monopoly, for which purpose cannon and ammunition had been procured, with the determination to tear it down. Mr. Baldwin, the agent of the company, had been arrested and imprisoned on the charge of using threatening language, but was subsequently released. On the 8th instant, according to private letters received, the inhabitants of Greytown sent a body of armed men instructed to destroy or remove the depôt. After destroying considerable property they took down and insulted the American flag, and gave notice that they would demolish the whole building on the 10th if it was not removed within the limits of the town. Great excitement prevailed, and the Transit Company had refused all intercourse with the town, and declared its determination to carry none of its citizens to New York.

Inclosure 3 in No. 156.

Mr. Crampton to Acting Consul Foote.

Sir,

Washington, March 17, 1853.

I HAVE received your letter of the 18th ultimo, and I perceive with regret from the last advices received here from Greytown, that the apprehensions you entertained in regard to the consequences of the disagreement you informed me existed between the municipal authorities of Greytown and the American Transit Route Company appear to have been but too well founded.

Should the report here received be confirmed that acts of violence have been committed by the municipal authorities in the expulsion of the agents of the American Transit Route Company from the stations or buildings which they occupied in the harbours of Greytown, I could not too strongly express my regret at such an occurrence.

The political position of Greytown is, as you are aware, one of great delicacy, and the consequences of such collision are of a magnitude altogether disproportioned to that of the questions out of which they arise.

The facts connected with proceedings of the sort you describe, magnified or misrepresented as they usually are by the public press, are made the subject of angry comments among the public, and even in the legislature of the United States, of a nature highly detrimental to the friendly relations of this country with Great Britain. This is a consideration which will I hope have its effect upon the good sense and natural acuteness of the members of the municipality of Greytown, as well as upon the agent of the Transit Route Company, composed as both are mainly of American citizens and British subjects; for it is evident that the future prosperity of that port must depend upon the good understanding which happily exists between Her Majesty's Government and

that of the United States in regard to the great project of an Interoceanic Canal, and upon the safe application of British and American capital to that undertaking.

But in connection with this subject I have to state to you that the municipality of Greytown appear to have laid themselves open to the complaints of other parties. A representation has been addressed by a number of French subjects to the Minister of France at this capital, remonstrating strongly against an act of the municipality by which they were compelled, under the alternative of imprisonment and other punishments, as they state, to take arms for the purpose of carrying out the determination adopted for the forcible expulsion of the agents of the Transit Route Company. The French Minister informs me that he has thought it his duty to apprize the senior officer of the French naval forces in the West Indies of the fact, with a view to the adoption of measures for the protection of French subjects from the effect of such arbitrary proceedings.

Under these circumstances I would earnestly impress upon yourself, as well as upon all other agents of Her Majesty's Government, the importance of effecting, by friendly mediation and advice, an amicable and satisfactory arrangement of these and all similar questions which may arise at Greytown or in other parts of the Mosquito territory.

I am, &c.

(Signed) JOHN F. CRAMPTON.

No. 157.

Mr. Crampton to the Earl of Clarendon.—(Received April 4.)

(Extract.)

Washington, March 21, 1853.

MR. CLAYTON'S speech, as I had the honour of remarking in my despatch of the 13th instant, contains an able defence of his own conduct in regard to the Treaty of 1850, and a vindication of the liberal policy in regard to the interoceanic communications in Central America upon which that Treaty was founded, as contrasted with the exclusive policy in that respect advocated by Mr. Douglas and others. I would however remark that the concluding passages of Mr. Clayton's speech, contain, besides some unwarranted assumptions in regard to the intentions of Her Majesty's Government in respect to Central America, his own interpretation of some of the provisions of Article I of the Treaty, to which he seems to attach a meaning which is evidently at variance with that which they naturally bear, and which has been attached to them by Her Majesty's Government. Mr. Clayton indeed avowed to me, in conversation, that he was aware that Sir Henry Bulwer did not agree with him as to the practical effect of the engagements in question.

Article I of the Treaty provides that neither of the High Contracting parties will "make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any State or people, for the purpose of erecting or maintaining such fortifications (before specified), or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, or of assuming or exercising dominion over the same."

Although the Treaty here evidently contemplates a protectorate by Her Majesty's Government or by the United States of any of the Central American States as a thing which does or may exist, such protectorate would, if Mr. Clayton's view of the provision be correct, be reduced to nothing, for Her Majesty's Government would be deprived of the means of exercising it for any purpose whatever: and more especially for the obvious purpose of defending the protected party from aggression by a foreign Power: "for if," as Mr. Clayton argues, "Great Britain could not place an armed soldier on the territory without violating the Treaty," Her Majesty's Government would be compelled to stand aloof while a defenceless people whom they had engaged themselves to protect, were dispossessed of their territory by any Power which might think proper to lay claim to it.

I would call your Lordship's attention more particularly to the unsoundness

of this position of Mr. Clayton, because it is probable that in any future discussion which may arise between the two Governments in regard to the provisions of the Treaty in question, the arguments now made use of by Mr. Clayton will be adopted by the Government of the United States.

No. 158.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, April 8, 1853.

I HAVE to acquaint you that I approve of the instructions which you state, in your despatch of the 21st ultimo,* that you gave to Mr. Vice-Consul Foote of Greytown, in regard to the violent proceedings of certain parties in that town.

I am, &c.

(Signed) CLARENDON.

No. 159.

Mr. Crampton to the Earl of Clarendon.—(Received April 18.)

(Extract.)

Washington, April 4, 1853.

IN my despatch of the 21st ultimo,* I had the honour to inclose the copy of a report from Mr. Vice-Consul Foote, dated the 18th of February, describing the state of things at Greytown, and I also transmitted to your Lordship an extract from a newspaper of a date later than that of Mr. Foote's letter, from which it appeared that certain acts of violence on the part of the Municipality, anticipated by Mr. Foote, had actually taken place.

I have now the honour to inclose a further report from Mr. Foote, dated the 18th ultimo, giving an account of what has since taken place at Greytown to that date; and I add an extract from the "New York Herald," containing a letter from the agent of the Transit Company, giving his account of the same transaction.

From both these reports it would appear that the Municipality of Greytown had proceeded to the forcible expulsion of the Transit Company from the station occupied by them, and had commenced the destruction of that establishment, when they were obliged to desist by the interference of Captain Hollins, the commander of the United States' ship-of-war "Cyane," who landed with a force of armed marines, and took other military measures for that purpose.

Captain Hollins, it seems, considers himself justified in the measures he has taken by the instructions which were addressed by the Government of the United States to Commodore Parker on the 13th of March, 1852, and to the officer commanding the United States' naval force at Greytown on the 18th of March, 1852.

Of these instructions I had the honour to forward copies to Her Majesty's Government in my despatches to the Earl of Granville of the 14th of March, 1852, and to the Earl of Malmesbury of the 22nd of the same month. They were, as your Lordship will perceive from those despatches, drawn up upon an understanding which was come to between Her Majesty's Government and that of the United States, that it would be expedient that both Governments should recognize the authorities of Greytown as a *de facto* body until such time as the result of pending negotiations should have determined the definitive political position of that place; and further, that it was expedient that joint instructions should be sent to Vice-Admiral Sir George Seymour on the one hand, and to Commodore Parker on the other, to come to such an understanding on the matter as would enable them to lend their united assistance to the authorities of Greytown in enforcing obedience to all regulations which should seem to those two officers to be necessary for the preservation of order, as well as the payment of such port-dues as might seem fair and reasonable in amount.

* No. 156.

I am happy to perceive that a good understanding exists between Captain Hollins and Mr. Foote, and it is no doubt satisfactory that the completion of the violent proceedings of the Municipality against the Transit Company was prevented. Without entering into the question of right between the Municipality and the Company, it appears to me, however, to be doubtful how far Captain Hollins was borne out by the instructions in question to take virtual possession of Greytown by an armed force. Of this, at all events, I am confident, that if an act of the same nature had been done, under similar circumstances, by a commander of one of Her Majesty's ships-of-war, it would not have failed to have been made the subject of remonstrance by the American Government, and to have been loudly denounced by a large party in the Senate of the United States, as well as by the American press, as a violation of the Treaty of April 1850.

The argument used by Mr. Clayton, himself the Plenipotentiary who signed the Treaty in question on the part of the United States, and which he has insisted upon in a speech lately delivered in the Senate, that Great Britain could not (now) "place an armed soldier on the (Central American) territory without violating the Treaty," would make the provision of the Treaty, which is not less binding upon the United States than Great Britain, apply with full force to the present proceeding of Captain Hollins. It would seem clear, therefore, that this proceeding must be promptly disavowed by the American Government, if they intend to maintain the position assumed by Mr. Clayton.

Inclosure 1 in No. 159.

Acting Consul Foote to Mr. Crampton.

Sir,

Greytown, March 18, 1853.

SINCE my last communication to you advising you of the proceedings of the Accessory Transit Company, and the contemplated movement of the city authorities with respect to the property of that Company on Point Arenas, a new source of trouble has arisen which renders more difficult the task of conciliating between the parties.

A day or two before the time fixed for the demolition of the houses, the United States' ship "Cyane" entered the harbour. The commander, on being informed of the intentions of the city authorities, at once informed them that he would not allow any depredations (as he termed it) to be committed on the Company's property, and that he would resist any attempt of the kind by force.

The authorities, however, on the appointed day sent the city marshal over to carry into effect the order in Council. On landing, however, on the point this person found himself confronted by an officer and party of marines from the "Cyane," who had been landed for the purpose of protecting the property of the Company, and repelling by force any attempts of the authorities to carry this ordinance into effect.

The commander of the "Cyane" had further established a species of blockade of Point Arenas, compelling all boats from this side to pass under the stern of the "Cyane." The captain also informed the inhabitants that he acted under instructions given to the naval forces of both nations, by which he deemed it his duty to protect not only American citizens but also those of other countries residing in San Juan.

While Her Majesty's ship "Geyser" was here, I was seized with a violent attack of fever, and to recruit my health was induced to go to Blewfields for change of air for a few days, where, most unfortunately, I was detained by heavy weather for some days beyond my time. The occurrences above-mentioned consequently happened during my absence, which I regret very much in consequence of a very rash and unwarrantable act which was committed by the authorities, and which, had I been here, would have been prevented. This was hauling down the Mosquito flag under a salute of twenty-one guns; the declared intention by the authorities being to make known to the captain of the "Cyane" that they had surrendered the city

and government into his hands in consequence of his interference in their affairs.

Immediately on my arrival here from Blewfields, about two days afterwards, I rehoisted the flag, saluting it at the same time with twenty-one guns from a field-piece which is under our charge, much to the satisfaction of the inhabitants. Since then all has been quiet. I have been requested several times, by delegates, to adopt the Governorship, but as a matter of course I have refused to interfere in the municipal arrangements, and at the same time I have urged upon the inhabitants the necessity of choosing from themselves a few competent persons to administer the laws until other arrangements can be entered into. They have refused, however, to act in the matter at present.

Immediately after hoisting the flag I went on board the "Cyane" to pay my respects to the captain, who received me very kindly, and at once communicated to me the particulars connected with his proceedings. He at the same time offered me any assistance I might require.

I cannot see that he has exceeded his instructions. Whatever may be the relative rights of the city or Company to the occupancy of Point Arenas, it is quite evident that the Company can produce no title to the occupancy, and at the same time it is very questionable whether the authorities have a right to injure the property of the Company.

I have assured Captain Hollins that I consider his proceedings borne out by his instructions; in fact, the best understanding exists between us.

I have, &c.

(Signed) HENRY GRANT FOOTE.

Inclosure 2 in No. 159.

Extract from the "New York Herald."

THE DIFFICULTIES AT SAN JUAN.

(From the New Orleans "Delta," March 16.)

WE give the following letter from Captain McCerran, in relation to the difficulties existing at San Juan, between the citizens of that place and the Accessory Transit Company:—

Gentlemen,

Punta Arenas, March 3, 1853.

The respectability and wide circulation of your valuable paper induce me to lay before you and your readers a case of outrage, which, in its nature and course, cannot be equalled.

Punta Arenas, the place from where I address you, is situated opposite to San Juan del Norte, or Greytown, and has been occupied by the Accessory Transit Company of Nicaragua as a depôt or general agency since the commencement of the Company's going into operation, under the full guarantee of the State of Nicaragua not to be molested in any way on the lands within the said State necessary for the use of the Company.

On the 1st of January last I purchased from Captain A. Bancker the warehouses and merchandize belonging to him at this point, and entered also into an arrangement with the Accessory Transit Company of Nicaragua to board the men employed by the same, and to furnish the steamers with stores, &c.; and for the purpose of making the employés of said Company as comfortable as possible, I found it necessary to remove the dwelling-house from the place where it stood, being there too much exposed to the washing of the sea, to the river side, and making for the comfort of said employés improvements and alterations in said house, as well as building a new kitchen and ovens, which alterations, &c., were done under very heavy expenses and outlays.

At this time business called me to New Orleans, and whilst there the

City Council of San Juan del Norte, or Greytown, on the 7th of February, 1853, passed Resolutions, of which the following is a true copy :—

“Be it enacted by the Common Council, in Session :

“Sec. 1. That should the Accessory Transit Company remove their office, workshops, &c., to this side of the harbour, that they may be exempt from all and every description of city tax on all the property they have, or may have, in the city and on the river for the use of the said Company, and the ocean steamers of said Company arriving in the harbour be exempt from port-dues upon payment of the ordinary pilotage.

“Sec. 2. Should the said Company establish any hotel, mercantile, or any other business aside from the transit business, that they shall pay the same tax and license that other citizens pay for pursuing similar business.

“That the Secretary of this Council do furnish the agent of said Company with a copy of the foregoing sections.

(Signed) “ROBERT D. LEES, (Signed) “SAMUEL S. WOOD,
“Secretary of City Council. “President of City Council.

“Greytown, or San Juan del Norte, February 7, 1853.”

In answer to the above Resolutions, the Council of said city was informed that the agent here, Captain Thomas Baldwin, had no authority from the Company to move the dépôt of the same, &c., and that the landings, &c., were not adapted for the purposes required ; upon which notice the agent of the Company received a letter from T. J. Martin, Mayor of San Juan del Norte, or Greytown, inclosing an ordinance passed by the City Council at the same time the above ordinance was passed, of which the following is a copy :—

“That the Mayor be directed to notify the Accessory Transit Company to remove, within five days, the buildings lately erected by said Company on the city land ; and also, within thirty days, to remove their entire establishment, as said lands are required for the use of the city ; and in case of the said Company not complying within the specified time, that summary proceedings be taken for the ejection.

(Signed) “ROBERT D. LEES, Sec. C. C.
“February 7, 1853.”

Upon the receipt of this ordinance, the agent of the said Company asked for an extension of time to show cause why the ejection should not be made, and the person in charge of my business addressed a letter to the City Council, praying an extension, &c., setting forth that the buildings referred to were not the sole property of the said Company, but that I had an interest in said buildings, and protesting against the enforcement of the said ordinance ; as also making a protest before H. L. Stevenson, Esq., Vice-Commercial Agent of the United States, to the same effect, and that the Resolution was against law and justice. Every means was resorted to to induce the Council and city authorities, as well by the agent of the Company as by the person in charge of my business, to grant an extension or to rescind the said ordinance, but to no avail ; they asked the protection of the Vice-Commercial Agent to prevent a destruction of property, and, perhaps, a loss of life, in his official capacity, being the only Representative of our Government here, but that the answer he received was, that he could not offer any protection ; and that his power and duties were of an advisory character, but that he should seek to avert a collision between the local authorities and the Accessory Transit Company. In the meantime, an affidavit was made against the agent of the Mayor, charging him with having used seditious language, &c., solely, I believe, of harassing or preventing the said agent from taking any active part, in case he should have thought necessary to do so ; upon which he was arrested, and obliged to enter into heavy bonds for keeping the peace, especially against the city. Three days passed in this manner, and the day for the ejection arrived. At about noon, the employés being at dinner, a party of some thirty persons, of all nations and colours, headed by the City Marshal, and commanded by Major James Lyons (a coloured gentleman) and

Captain Benjamin Mooney, arrived at this point to commence their work of destruction, being provided with all the necessary instruments for such purposes; which destruction they commenced by tearing down the American flags which were waving above the house and other buildings, and then wantonly destroyed the whole of the property, not even giving my employes time to save the articles in the houses, with the exception of very few. In tearing down the buildings, these persons looked more like tigers falling upon their prey than human beings. Resistance could not be offered, because a leader and arms were wanting, and all had to look on in silence on the destruction until the work was finished, which left all of us houseless, without the means of providing for our men the necessities of life, and exposing them to the inclemencies of the weather at this season of the year, and in such a sickly country as this. What have we, then, to expect at the expiration of the term set by the said ordinance, of ejecting us from all the balance of the property, which time will expire in a very few days? The worst! the worst! Here we are without arms, and without protection in any way whatsoever; subjected to be robbed by a set of unprincipled men, who have nothing to lose, and who act, and who are, *de facto*, the authority of the city of San Juan del Norte, or Greytown, of our property, jeopardizing the safety of our persons and lives, and leaving us to protect ourselves, without the means in our hands to do so. It is now nearly a year since an American ship of war has entered this port; therefore this state of affairs, leaving Americans and an American company, having a very large amount invested in the pursuit of their business, unprotected, and at the mercy of such a legalized band of land pirates. To speak of protection from our Government appears to them a farce. They think that the United States' Government cannot protect herself, much less American citizens and property abroad; therefore they tear down with impunity the flag of our country, and all that is wanting is their trampling the same under their feet.

The British Government has a steamer of war coming in here every now and then, and during the pendency of the difficulty and before the destruction of the property, application was made to Her Britannic Majesty's steamer "Geyser" to protect the Company, but the answer of her commander (Captain Wilson) was, that "he had no instructions from his Government to interfere with or protect the Accessory Transit Company; his instructions only related to the Atlantic and Pacific Canal Company."

The English Vice-Consul here, Mr. Foote, was requested to protect our interests; but he refused, advising us very kindly to seek protection from the very authorities and persons who were seeking the destruction of our property.

The agent of the Accessory Transit Company at this point received notice several months ago from the Board of Directors of said Company, that the Government had sent, or would immediately send, out a ship of war, but up to this time no vessel has arrived. If one does not come very soon, it is likely that but very few Americans will be left here able to tell their story. Being apparently abandoned by their Government, the authorities of San Juan del Norte, or Greytown, think and believe that they can with impunity rob them of their property, and murder them if necessary.

In conclusion, it is but justice to say that there are but few Americans in the whole town of San Juan del Norte, or Greytown, and they are, numerically, too weak to interfere in the matter. Our only hope now is the arrival of an American ship of war before it will be too late.

Very respectfully, &c.
(Signed) GEO. W. McCERRAN.

No. 160.

Mr. Crampton to the Earl of Clarendon.—(Received April 25.)

My Lord,

Washington, April 10, 1853.

WITH reference to my despatch of the 4th instant, inclosing the copies of letters addressed to me by Vice-Consul Foote, giving an account of the state of things at Greytown down to the 18th ultimo, I have now the honour to

* inclose the copy of a letter, with three inclosures, from Mr. Consul Green, dated on the 30th ultimo at that place, to which, in consequence of the information he received, he had returned.

Your Lordship will perceive with satisfaction that a good understanding exists between Her Majesty's Consul and the commander of the United States' ship of war "Cyane;" and that the City Council of Greytown have been persuaded to resume their functions, as well as to desist from further violent proceedings against the American Transit Route Company, thus rendering the further interference of Captain Hollins of the "Cyane" for the protection of American property unnecessary.

Mr. Green incloses copies of a correspondence between the commander of the "Cyane" and Commander Wilson of Her Majesty's steamer "Geyser," from which it appears that, although those officers differ in some respects as to the application of the instructions given by their respective Governments in March 1852 (alluded to in my despatch of the 4th instant,) in regard to the recognition of the authorities of Greytown as a *de facto* body, there has been no interruption to the good understanding subsisting between them.

With regard to the complaint which, as I had the honour of stating to your Lordship in my despatch of the 21st instant, was addressed to the French Minister at Washington by certain French subjects at Greytown against the proceedings of the Municipality, Mr. Green forwards to me, for transmission to the French Legation here, a statement from other French subjects, from which it would appear that the complaint in question had little foundation.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 160.

Consul Green to Mr. Crampton.

Sir,

Greytown, March 30, 1853.

IN consequence of the information received from Greytown, and the opportunity of getting down to that place presenting itself by the arrival at Blewfields of Her Majesty's steamer "Geyser," I deemed it advisable to lose no time in reaching that place, so that I might use my best endeavours in quieting the inhabitants and mediating between the parties at variance.

Together with the commander of the "Geyser" I visited the commander of the United States' ship "Cyane," who seemed equally anxious that matters should be put to rights. The best understanding exists between us, and there is but one subject on which the instructions of the two commanders differ. I inclose to you copies of the letters which passed between them, which will explain to you the points of difference.

Your communication of Mr. Foote arrived yesterday evening, and I observe the instructions therein contained.

With reference to the complaint of a number of French residents which had been forwarded to the French Minister, I must inform you that there are but ten resident natives of that nation in this town, of which number but two individuals are largely engaged in commerce, Messrs. Seigeund and De Barouel. The former is a highly respectable merchant, and well known to the trading community. This gentleman and the others whose names are attached to the accompanying declaration (which I have been requested by the parties to forward through you to the French Minister) have acted of their own free will and accord in the case complained of. The Messrs. De Barouel not having voted at the late election, were exempted from all military or other duties, so that I cannot conceive what French residents could have forwarded the complaints alluded to by the French Minister.

This day I have succeeded in prevailing upon the most respectable and influential of the inhabitants to approve and recommend the resumption of their duties by the City Council, and in fact in placing things to a certain extent upon their former footing. The inhabitants have unanimously agreed to forego their previous intentions of pulling down the houses of the Company, and to-morrow the interference of the "Cyane" will be withdrawn.

The election day being close at hand, the present municipal body will, according to the City Constitution, retire from office on the 30th April.

I approve of the measures adopted by Mr. Foote during my absence.

I have, &c.

(Signed) JAMES GREEN.

Inclosure 2 in No. 160.

Captain Hollins to Captain Wilson.

Sir,

"Cyane," San Juan de Nicaragua, March 27, 1853.

AFTER the conversation I had with you yesterday, I thought it would be better to inform you in writing how I have construed the instructions of the late Mr. Webster, United States' Secretary of State.

Viewing those instructions as explicit in reference to all difficulties that might occur at San Juan de Nicaragua, I will now state plainly that all property belonging to either English or American citizens lying in or out of said city limits, is to be protected from any injury attempted on the same by the inhabitants of that town, peaceably if we can, forcibly if we must, and so long as they conduct themselves properly, it is our duty to assist them in sustaining such municipal laws as they may deem it necessary to make for their better Government; beyond this, I will not recognize any right on the part of their Court to exercise jurisdiction over the persons and property of the Accessory Transit Company at Point Arenas.

These are my views, and I shall wait for further instructions from my Government.

By giving me yours on the same subject, you will oblige,

Yours, &c.

(Signed) JOHN P. HOLLINS.

Inclosure 3 in No. 160.

Captain Wilson to Captain Hollins.

Sir,

"Geyser," Greytown, March 28, 1853.

IN reply to your communication of yesterday's date, I beg to state that as the existing authorities of Greytown have been recognized *pro tempore* by the Governments of Great Britain and the United States, and as I understand Point Arenas to be within the limits of their jurisdiction, any measures taken by me to put a stop to their proceedings against the Accessory Transit Company's establishment on that point, would be an unnecessary interference in their affairs which I have express instructions to avoid.

I conceive those proceedings to be legal, and the persons and property of the Accessory Transit Company to be as amenable to the laws of the Greytown Government as the humblest individual in the community.

During my late service here in the month of February, when the proceedings against the Company were first instituted, I acted in accordance with these views.

As, however, you consider your instructions to enjoin a different line of conduct, and as you have thought it your duty to arrest the proceedings of the Municipality until the arrival of further instructions from Washington, I beg to state that in the meantime, until I receive further instructions from Commodore McQuhae, I will cooperate with you heartily in endeavouring to preserve the peace of the town, and affording protection to life and property.

I have, &c.

(Signed) THOS. WILSON.

No. 161.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, April 29, 1853.

WITH reference to your despatches of the 13th and 21st of February,* stating that you had communicated to the United States' Government what the views and opinions are of Her Majesty's Government in regard to Central America and the Mosquito nation, and detailing also the substance of your conversation with Mr. Everett upon that subject, I have to instruct you to call the attention of the Government of the United States to your communications with the late American Secretary of State and to the terms of President Fillmore's message of the 18th of February last; and you will at the same time express the hope of Her Majesty's Government, that the Mosquito question may now be speedily and amicably arranged on the basis proposed by Her Majesty's Government.

I am, &c.

(Signed) CLARENDON.

No. 162.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, April 29, 1853.

I HAVE received and laid before the Queen your despatch of the 4th instant, in which you describe the occurrences which had taken place at Greytown in the month of February, and in which the commander of the United States' ship-of-war "Cyane" had taken a conspicuous part. Those occurrences, like all recent proceedings connected with Greytown and the settlement of the Central American question, are of a complicated and not very intelligible nature. But it is unnecessary that I should at the present moment enter into a consideration of their details. It will be sufficient to say that Her Majesty's Government deeply regret what has happened at Greytown, as tending to complicate still further a question already sufficiently embarrassing and difficult of solution.

However questionable in law the retention of the possession of Punta Arenas by the Accessory Transit Company may have been, it is to be regretted that the Town Council of Greytown should have proceeded to acts of forcible ejection against that Company. And on the other hand, however justifiable may have been the interposition of the commander of the "Cyane" to prevent acts of violence being exercised against the Company, Her Majesty's Government cannot but consider that that officer should, in the first instance at least, have confined that interposition to a warning to the Town Council of Greytown to desist from these forcible proceedings under pain of compelling him, if they were persisted in, to interfere by force of arms in protection of the Company until the question of lawful or unlawful occupancy should have been fairly decided.

Her Majesty's Government have no doubt that Captain Hollins acted with perfect honesty of intention and to the best of his judgment in a situation of much difficulty; but they consider that in landing an armed force and taking actual possession of territory if not demonstrably belonging to, at least claimed with every appearance of right by the *de facto* Council of Greytown, many members of which were United citizens, he acted in a manner not warranted by his instructions.

Certain, at all events, it is that if the commander of an English ship-of-war had acted in similar circumstances like the United States' commander, but one voice of condemnation of such a proceeding would have resounded from one end of the United States to the other.

I have little doubt that before this despatch can reach you, you will have expressed an opinion in this sense to the United States' Government. If you should not, however, have done so, I have to desire that you will forthwith, in

temperate terms, make known the feelings and views of Her Majesty's Government to the United States' Secretary of State. But in so doing you will be careful to say that, under the peculiar circumstances in which Captain Hollins was placed, Her Majesty's Government are not disposed to condemn his conduct. They merely wish to express their regret that he should have thought it necessary to push his measures of coercion against the constituted authorities of Greytown to the extent to which he carried them. And they further wish that stringent instructions should be issued to the United States' naval commanders on that station to abstain carefully and constantly from all acts of force which may tend to weaken the authority of the *de facto* Government of Greytown which has been temporarily established by the mutual consent, and under the protection, of the Governments of Great Britain and the United States.

But Her Majesty's Government more especially desire to impress, in the most earnest manner, on the Government of the United States the paramount importance of finally settling the hazardous question of the future position of Greytown, the Mosquito Kingdom, and Central America generally—a question fraught with embarrassment and even danger, which cannot fail to increase daily so long as the points at issue remain in abeyance.

We have already made the fairest proposals to the United States' Government for the settlement of this important matter, and we are prepared to carry out those proposals in perfect sincerity of purpose whenever the United States' Government may think proper to enter upon the question with us. We the more especially desire that these negotiations should not be delayed, because we have of late but too clearly seen how completely the rights of the question at issue, and the intentions of Great Britain, may be misunderstood and misrepresented in the United States. Until the matter be finally disposed of by a Convention or formal agreement between Great Britain and the United States in concert, if practicable, with the Central American States more nearly concerned in the question, but if not practicable, without such concert, Great Britain must necessarily retain the position which she has always held with regard to Mosquito, and which the Convention of 1850 was calculated and intended, when practically carried out, to modify, but which as its provisions have not been carried out, it has not as yet altered. Great Britain must also continue, under the same conditions, to assert the title of Mosquito to those boundaries which have always been claimed by that territory, and in so asserting those boundaries, Great Britain must still repel any aggression within those limits which may be committed by Nicaragua, Honduras, or any other Central American Power.

But so far from being desirous of assuming voluntarily this attitude of protector, Her Majesty's Government anxiously wish to be relieved from so irksome and embarrassing a position by an honourable act of settlement which shall dispose of the question for ever.

You will read this despatch to the United States' Secretary of State, or to the President if desired: and you will urge both the President and the Secretary of State to lose no time in meeting our views for finally disposing of a question which, if suffered to remain open, cannot fail to be productive of serious danger to both countries.

I am, &c.
(Signed) CLARENDON.

No. 163.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, May 27, 1853.

AS great misconception appears to prevail, not only among the people of the United States, but also among persons placed in high and responsible situations in the Government of that country, with regard to the true nature of the engagements into which Great Britain entered by the Convention of Washington, of the 19th of April, 1850, with respect to her present and future relations with Mosquito and the other nations of Central America, and as that misconception, if not immediately corrected, might lead to serious misunderstanding between Great Britain and the United States, I think it

highly desirable that that question should, without delay, be put upon its right footing by a clear and distinct explanation of the view which Her Majesty's Government take of it, and of the conduct which they intend to pursue with regard to it.

The Article (I) in the Treaty which treats of this matter, runs thus:—

“The Governments of Great Britain and the United States hereby declare that neither the one nor the other will ever obtain, or maintain for itself, any exclusive control over the said Ship-Canal; agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, or the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have, to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, or the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same.”

To every stipulation contained in this Article, Her Majesty's Government will faithfully adhere. They will neither seek to obtain any exclusive control over the Ship-Canal, if ever formed, nor will they erect any fortification commanding, or in the vicinity of, that canal; nor will they occupy, or fortify, or colonize, or assume or exercise any dominion over any part of Central America; nor will they make use of any protection which they afford, or may afford, or any alliance which they have, or may have, to or with any State or people, for the purpose of occupying, fortifying, or colonizing any part of Central America, or of assuming or exercising dominion over the same.

All these engagements Great Britain will religiously keep, as she does not doubt that they will be religiously kept by the United States. But Great Britain has nowhere in the Treaty of April 1850 renounced, nor ever had any intention to renounce, the full and absolute right which she possesses over her own lawful territories in Central America, such as that designation was distinctly understood and declared by the negotiators of the Treaty; nor has Great Britain renounced by the Treaty the protection which she has for centuries past afforded, and still affords, to the Mosquito territory.

With a view to relieve the question of the Mosquito territory of whatever there may be of indefinite about it, and to place it upon a clear and stable footing, which will be equally advantageous to Mosquito itself, and to all the Powers which are in any way connected with or concerned in it, Her Majesty's Government have already, on many occasions within the last twelvemonth, made overtures of the fairest and most liberal and practical character to the United States' Government, inviting that Government to go hand in hand with the Government of Great Britain in devising and establishing a scheme of adjustment by which the affairs of Central America, Mosquito included, shall be satisfactorily and permanently settled, and the honour of Great Britain, as ancient protector of Mosquito, shall be preserved intact.

Her Majesty's Government are still ready and desirous at any moment to enter into friendly communication with the United States' Government on this important matter; and they are of opinion that the sooner such negotiation is opened and terminated, the better it will be for all the parties concerned, and the greater will be the security for the maintenance of the friendly relations which now so happily subsist between Great Britain and the United States.

But until such settlement be finally concluded, it is obvious that Great Britain cannot abandon her present position with regard to Mosquito, nor can she permit either Nicaragua or Honduras to assert, and still less to attempt to establish by force of arms, over any part of Mosquito, a right of possession which Great Britain has always denied, and still denies. And if either Nicaragua or Honduras were still to continue to make aggressions on the Mosquito territory with that object, it must be at their own peril.

Such are the views which Her Majesty's Government entertain with respect to Central America, as affected by the Treaty of Washington of the 19th of April, 1850; and such is the course of conduct which Her Majesty's

Government propose to pursue with respect to that country and to the various questions which have arisen, or may arise, under the Treaty. I will, however, add that Her Majesty's Government have no intention of disturbing, or departing in any way from the arrangement entered into between the two Governments for the maintenance of the *de facto* Government and position of Greytown.

You will read this despatch to the United States' Secretary of State; and you will at the same time repeat to him the earnest desire which is felt by Her Majesty's Government to proceed throughout the whole of this matter cordially and in the most unreserved manner with the Government of the United States.

I am, &c.
(Signed) CLARENDON.

No. 164.

Mr. Crampton to the Earl of Clarendon.—(Received June 7.)

My Lord,

Washington, May 22, 1853.

I HAVE the honour to inform your Lordship that, in obedience to your instructions, I have read to the Secretary of State of the United States your Lordship's despatch of the 29th ultimo,* expressing the regret felt by Her Majesty's Government at the late proceedings of the United States' ship-of-war "Cyane" at Greytown, and instructing me to urge upon the United States' Government the speedy settlement of the Mosquito and Central American question.

Mr. Marcy assured me that he would lose no time in calling the attention of the President to this important subject, and having requested me to give him a copy of your Lordship's despatch for the purpose of communicating it to the President, I have thought it expedient to do confidentially.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 165.

The Secretary to the Admiralty to Mr. Addington.—(Received June 9.)

Sir,

Admiralty, June 8, 1853.

WITH reference to your letter of the 26th April and its inclosures, I am commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl of Clarendon, copies of a letter from Vice-Admiral Sir George Seymour, dated the 12th May, and of its inclosure, from Commander Wilson, of Her Majesty's steam vessel "Geyser" relative to the state of affairs at Greytown, Mosquito.

I am, &c.
(Signed) W. A. B. HAMILTON.

Inclosure 1 in No. 165.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

"Cumberland," at Sea, Lat. 39° 37' N., Long. 66° 19' W.

Sir,

May 12, 1853.

I BEG to inclose, to be laid before the Lords Commissioners of the Admiralty, a copy of a report from Commander Thomas Wilson, of Her Majesty's steam-sloop "Geyser," dated the 2nd ultimo, and addressed to Commodore McQuhae, on the circumstances attending his meeting the United States' ship

"Cyane" at Greytown in March, and the communications which had passed between him and her commander, which Commander Wilson seems to have conducted in a manner to prevent any difficulties which were likely to ensue from the conduct of the municipal body.

Commander Wilson, as he has reported to me, again returned from Blewfields to Greytown on the 16th April, when he ascertained that Captain Hollins, of the "Cyane," had received letters from his Government, approving of his conduct.

The annual municipal elections had taken place without much change in the individuals who exercised authority in the previous year.

Commander Wilson saw no reason to expect there would be any disturbance so long as the passengers by the boats of the Transit Company are allowed to resort to Greytown. He left the place on the 17th ultimo for Jamaica, from whence he arrived at Bermuda on the 7th instant, as I was leaving the anchorage.

The "Geyser" was likely to be detained ten days at Bermuda for some additional repairs to her engine and boilers, and would then proceed to England.

I have, &c.
(Signed) G. F. SEYMOUR.

Inclosure 2 in No. 165.

Captain Wilson to Commodore McQuhae.

(Extract.)

"Geyser," Greytown, April 2, 1853.

I HAVE the honour to inform you that I arrived here on the 26th ultimo, having called at Blewfields on the previous evening for Mr. Green, Her Majesty's Consul, and brought him on hither.

I communicated with Captain Hollins, of the United States' corvette "Cyane," and found, as you supposed, that what Mr. Mayor Martin had termed "taking possession of the port of Greytown," was merely landing his marines to guard the Transit Company's establishment on Point Arenas, which the Greytown authorities were about to pull down, and which he informs me he has special directions to protect. He would have given me a copy of that part of his orders which contains those directions, but they have been forwarded to the American Minister at Guatemala, and have not yet been returned.

On his arrival, learning what was about to take place, he asked for a suspension of proceedings until he could hear from Washington; but the Municipality would not accede to his request, and accordingly he took steps for carrying out his instructions.

Being thus stopped in their intended proceedings, the Municipality sent him a document protesting against his interference in their affairs, and resigning into his hands the government of the town and the offices which they held. In addition to this, they took it upon themselves to haul down the Mosquito flag, which Mr. Foote, Her Majesty's Vice-Consul, as he has already informed you, hoisted again immediately on his return from Blewfields, where he had been staying for the recovery of his health. Captain Hollins took no notice of the document, but confined himself to securing the American property on Point Arenas, and for that purpose hauled his ship over towards the Point, and gave notice that all boats crossing over from the town should pass within hail. He also offered to Mr. Foote to send a guard of marines to protect the Mosquito flag. On the day after my first conversation with him he sent me a letter, stating his views as to the line of conduct which the Commanders of British and American vessels of war ought to pursue at this place, under existing circumstances, to which I replied.

I saw all the members of the late Municipality at present in the town, and used every argument to induce them to resume the ordinary duties of their office, as the gratuitous suspension of its functions could hurt no one but its inhabitants, and was particularly inopportune at present, as the Municipality elections ought to take place in the middle of this month.

They candidly admitted that their object was to make out as strong a case

as possible against Captain Hollins, and they seem to have had an idea that by their hauling down the Mosquito flag, he would appear to have committed an act of hostility against Great Britain.

I am happy to say that Mr. Green's influence with the inhabitants has been sufficient to make them think better of the matter; and at a meeting held the night before last, they formed what they call a provisional Government but what is, in fact, the same members of Government taking office again. By this the peace of the town is secured; and as the Transit Company have replaced Mr. Baldwin, their late superintendent, by another, who sends the passengers travelling to and from California over to the town instead of keeping them at their establishments up the river, the change has already had a good effect, and both parties seem in the best possible humour with each other.

Captain Hollins and myself are on the most friendly understanding, and have every hope that the dispute between the town and the Company will be peaceably arranged, and that there will be no further misunderstanding pending the settlement of the Central American question. He now waits for instructions from Washington, which he does not expect before the 14th instant.

Under all the circumstances of the case, I think it advisable that a British vessel of war should be here at that time, when Mr. Green will, doubtless, hear from Mr. Crampton, and I shall therefore remain until I receive your further instructions, or until I can see clearly that there is no longer any occasion for delaying my return to Port Royal.

I believe the presence of a ship-of-war of each nation, when the next despatches arrive from Washington, and the concurrence of their respective commanders in whatever arrangements may be pointed out, will have a good effect among the inhabitants, and therefore I hope my remaining here will meet your approbation.

I ran out to sea on the 28th, and returned on the 30th; and I shall take care to comply with the Commander-in-chief's instructions not to remain longer in harbour than is absolutely necessary. By the "Prometheus," which arrived from New York on the 29th, Mr. Foote received a letter from Mr. Crampton, of which I forward a copy.

The ship's company are in good health.

No. 166.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, June 10, 1853.

I HAVE received your despatch of the 22nd ultimo, stating that you had read to the United States' Secretary of State my despatch of the 29th of April, respecting Greytown and the Mosquito question; and that, at Mr. Marcy's request, you had given him, confidentially, a copy of that despatch, in order that he might communicate it to the President; and I have to state to you my approval of your proceedings in this matter.

I have, &c.
(Signed) CLARENDON.

No. 167.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, June 23, 1853.

WITH reference to my despatch of the 29th of April last, relative to the proceedings of Captain Hollins, of the United States' ship-of-war "Cyane," in the matter of the dispute between the municipal authorities of Greytown

and the American Transit Company, I transmit to you herewith, for your information, a copy of a letter* from the Admiralty inclosing a copy of a report from Commander Wilson, of Her Majesty's steam-sloop "Geyser," relative to the communications which have passed between him and Captain Hollins upon the above-mentioned subject.

And I have to acquaint you that I have informed the Lords Commissioners of the Admiralty, that I am of opinion that Commander Wilson's proceedings should be approved.

I am, &c.
(Signed) CLARENDON.

No. 168.

Mr. Crampton to the Earl of Clarendon.—(Received June 26.)

My Lord,

Washington, June 13, 1853.

IN obedience to the instructions contained in your Lordship's despatch of the 27th ultimo, respecting the great misconception which appears to prevail in the United States with regard to the true nature of the engagements into which Great Britain entered by the Convention of the 19th of April, 1850, I have read that despatch to the Secretary of State of the United States.

Mr. Marcy, without attempting to controvert the position taken by Her Majesty's Government, remarked that he was not yet able to say what the opinion of the United States' Government in regard to the interpretation of the Treaty would be. He added, however, that the matter was one of anxious consideration in the Cabinet of the United States, who had every wish to settle it in a way which would be satisfactory to all the parties concerned, and concluded by saying that most probably the views of the Government of the United States would be embodied in an instruction to Mr. Buchanan, who would shortly repair to his post, and who would be empowered to discuss the matter with your Lordship.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 169.

Mr. Ingersoll to the Earl of Clarendon.—(Received July 5.)

45, Portland Place, London, July 4, 1853.

MR. INGERSOLL presents his compliments to the Earl of Clarendon, and has the honour to inclose a copy of the despatch dated June 9, 1853, from his Government, which was read to Lord Clarendon by Mr. Ingersoll on Friday.

Inclosure in No. 169.

Mr. Marcy to Mr. Ingersoll.

Sir,

Washington, June 9, 1853.

SOME days since, Mr. Crampton, Her Britannic Majesty's Minister, read to me a despatch of the 29th of April last, addressed to him by Lord Clarendon,

Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, relative to the occurrences in March last, at San Juan (called Greytown in that despatch). Having afterwards been furnished by Mr. Crampton with a copy of the despatch, the President has been made acquainted with the views which it presents.

The President does not discover in those occurrences, and if fully known to Her Majesty's Government he presumes it would not discover, anything that could give rise to the apprehension of Lord Clarendon that they tend "to complicate still further a question already sufficiently embarrassing and difficult of solution"—the Central American question. As the President has not seen anything to disapprove in the proceedings of Captain Hollins on the occasion referred to, he has instructed me to communicate his views to you on that subject, in order that they may be presented to Her Majesty's Government; and he is quite confident that the transaction at San Juan, when all the facts in relation to it are known, will appear in a light very different from that in which it has been viewed by Lord Clarendon. There is probably some difference of opinion between the two Governments as to the right of the Accessory Transit Company to retain possession of Punta Arenas against the people of San Juan. The dwellers at that place were not, when those occurrences happened, and as the President believed, never were, in the actual possession of Punta Arenas; nor, as the case is understood here, have they any title to it, or any right to disturb that Company in the occupancy thereof.

If this point of land is within the territorial limits of Nicaragua, as that Republic claims it to be, the right of the Accessory Transit Company can hardly be drawn in question. It is derived from an express grant in their Charter from the Government of Nicaragua. If, on the other hand, it is within the territorial limits of Costa Rica, as that State asserts, the Company can retain their possession as against the people at San Juan, who do not pretend to hold the town of San Juan, or any other property, by grant or permission from the Government of Costa Rica.

The United States cannot recognize as valid any title set up by the people at San Juan, derived from the Mosquito Indians. It concedes to this tribe of Indians only a possessory right, a right to occupy and use for themselves the country in their possession, but not the right of sovereignty, or eminent domain, over it.

It is not now made known for the first time to Her Majesty's Government that the United States denies that these Indians have any sovereignty over the country they occupy. Our Government does not make, nor does it perceive any good reasons for making any distinction between this tribe of savages and those which occupied parts of our territories, or of the territories of the British provinces in North America. I am aware that Her Majesty's Government regard the Mosquito Indians as an exceptional case to the rule generally acted on by itself as well as other nations; but in this claim the United States has never acquiesced. It is not proposed on this occasion to discuss this question: for, however decided, it cannot change the aspect of the transaction alluded to. It is not probable that any attempt will be made to claim for the people at San Juan any authority over Punta Arenas, derived from the Mosquito Indians, even if it were possible to invest them with sovereign authority over the country they have occupied. Punta Arenas, it will be recollected, is on the southern bank of the River San Juan. At the time when the Accessory Transit Company took possession of it, there was scarcely the foreshadowing of a pretension to a claim for these Indians to any territory whatever on the south side of that river.

With such a title and actual possession under it by the Accessory Transit Company, the extraordinary proceedings of the people at San Juan to destroy the Company's property at Punta Arenas, seems to me to deserve no countenance from any quarter; nor does the assistance rendered to the Company, being composed of citizens of the United States, by the commanding officer of one of our national vessels, merit rebuke or require justification.

I am quite sure Her Majesty's Secretary of State would not have commented as he has upon the transaction, if all the facts had been known to him. The main, if not the only, ground of objection presented by Her

Majesty's Government to the conduct of the commander of the "Cyane" is not, as I understand the despatch of Lord Clarendon, that Captain Hollins interposed to prevent acts of violence from being perpetrated against the Company, "but that he did not, in the first instance at least," confine "that interposition to a warning to the Town Council of Greytown to desist from those forcible proceedings, under pain of compelling him, if they were persisted in, to interfere by force of arms in protection of the Company, until the question of lawful or unlawful occupancy should have been fairly decided."

Lord Clarendon assumes that no such warning was given; and the omission to give it appears to be the only ground for his animadversions on the conduct of the commander of the "Cyane." This ground is entirely swept away by the facts of the case. The warning to the full extent suggested was given to the Town Council of San Juan over and over again. The day before that fixed on for the demolition of the buildings on Punta Arenas by the people at San Juan, Captain Hollins, hearing of their intention to commit that act of violence, sent Theodore P. Green, his First Lieutenant, on shore, with directions to inform the people of San Juan that if they attempted to carry their resolution to destroy the property at Punta Arenas into effect, he should resist them by force. Lieutenant Green gave this warning to the Mayor and Common Council, while in session at their Council Chamber. He in fact did all that Lord Clarendon suggests as proper to have been done prior to an allowable interposition by an armed force. But Captain Hollins' precautionary steps went much further. In the morning of the same day on which the attempt was made to destroy the property at Punta Arenas, by the people of San Juan, being informed that they did not intend to heed this warning and desist, but were preparing to execute the threatened outrage, he went himself on shore, and in person, to the Common Council, then in session, and notified them, "that he should be compelled to put a stop to any depredations they might attempt upon the property of the Accessory Transit Company." Captain Hollins' efforts to prevent the violent proceedings of the people at San Juan did not cease with this twice repeated "warning;" but, after his return on board of the "Cyane" he issued a written warning addressed to the Mayor of that place, of which the following is a correct copy:—

*"United States' ship 'Cyane,' Harbour of San Juan del Norte,
or Greytown, March 11, 1853.*

"Sir,

"After the interview I had with your Honour this morning, before your Honourable Council assembled, I have to state most respectfully that I cannot permit any depredations on the property of the Accessory Transit Company, whose depôt is located upon Punta Arenas at the entrance of this harbour.

"I am, &c.

(Signed) "GEORGE N. HOLLINS,

"Commander United States' ship 'Cyane.'

"To his Honour the Mayor of San Juan del Norte,

"or Greytown, Nicaragua."

These facts, when brought to its notice, must, as the President believes, convince Her Majesty's Government that there is no cause for taking the exception which it has taken to Captain Hollins' conduct at San Juan in March last. They must remove from Lord Clarendon's mind all feelings of regret, and all apprehensions that the occurrences to which he refers will in any way complicate the already sufficiently-embarrassing and difficult question between the two Governments in regard to Central America.

The President considers it to have been the unquestionable duty of the commander of the "Cyane" to afford the protection he did to the Accessory Transit Company against the threatened outrage of the people at San Juan; and he cannot discover anything in the manner of performing that duty to which any exception ought to be taken.

If there be anything in the transactions at San Juan at that time to be regretted, it is the course which the commander of the British steamer "Geyser" saw fit to pursue in regard to this movement of the populace at that place a

short time previous to that of the 11th of March, against the servants and property of the Accessory Transit Company on Punta Arenas.

On the evening previous to the day when an attack upon both was made by a party from San Juan, the captain of the "Geyser" was at anchor in the harbour, and was notified by the Company's agent of the intended attack the next day on the property of that Company at Punta Arenas; but, instead of interposing to prevent the meditated destruction of it, or to dissuade the reckless men engaged in that project from an act so outrageous—so likely to lead to violence and civil confusion—he departed temporarily from the port, leaving the servants and property of the Company at the mercy of their assailants.

It is reasonable to conclude that, if the kind offices of that officer had been then vigorously interposed, and his departure from the port at that crisis had not given some plausibility to the inference (doubtless unjust towards Captain Wilson) that he did not disapprove of the movement, no force would have been required to prevent difficulties at that or any subsequent period.

It is proper to say, in conclusion, that the President does not authorize me to say, in reply to the despatch of Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, anything which may be construed into a recognition on his part of the claim set up by the people of San Juan to sovereign authority in themselves over any territory whatever, or to any municipal or corporate powers or political organization derogatory to the sovereign rights of either Nicaragua or Costa Rica; nor does he regard any instructions heretofore issued from this or the Navy Department to our naval officers for the temporary recognition of an authority for the mere purpose "of preserving the public peace, and punishing wrong-doers," by the anomalous Settlement at San Juan, as sanctioning the pretensions of the people of that place to be considered a *de facto* Government, independent of the State within the territorial limits of which the town of San Juan is situated.

In order to apprise Her Majesty's Government of the views of the President in regard to the occurrences at San Juan in March last, you will read this despatch to the Secretary of State for Foreign Affairs, and also furnish him with a copy of it, if a copy should be requested.

I have, &c.
(Signed) W. L. MARCY.

No. 170.

The Earl of Clarendon to Mr. Ingersoll.

Foreign Office, July 6, 1853.

LORD CLARENDON presents his compliments to Mr. Ingersoll, and has the honour to acknowledge the receipt of Mr. Ingersoll's letter of the 4th instant, together with its inclosure.

No. 171.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, July 22, 1853.

I TRANSMIT to you herewith the copy of a despatch* addressed by the United States' Secretary of State to the United States' Minister in this country, which, by the direction of his Government, the latter gentleman has put into my hands. That despatch has reference to the recent occurrences at Greytown and Punta Arenas, and to the conduct of Captain Hollins, the commander of the United States' ship "Cyane," on that occasion.

The tone of that despatch, if not hostile, is certainly not such as Her

* Inclosure in No. 169.

Majesty's Government had hoped for from the United States' Government, after the many fair and friendly efforts which, at some sacrifice of feeling with respect to the Mosquito country, they have for some time past made with the United States' Government, in order to bring about, in concert with them, a mutually advantageous and equitable settlement of the affairs of Central America, more especially in reference to Greytown and the Mosquito country.

In justifying the conduct of Captain Hollins in the dispute which occurred in the month of February last between the Accessory Transit Company and the *de facto* Government of Greytown, the United States' Secretary of State applies the word "rebuke" to the representation which in my despatch of the 29th of April last I directed you to make, on the part of Her Majesty's Government to the Government of the United States on the subject of the proceedings of that officer, but I neither rebuked nor invited a rebuke upon Captain Hollins. I merely pointed out in temperate language the erroneous position in which, according to my view of the matter, that officer had placed himself; and, in order to avoid all danger of future misunderstanding, I requested that stringent instructions might be conveyed to the United States' commanders on that station for the guidance of their conduct on similar occasions in a sense different from that pursued by Captain Hollins.

That request was grounded on the instructions which were furnished in the spring of 1852 by the British and United States' Governments to their respective naval commanders in Central America, directing them to support, in conjunction, and pending the negotiations for the settlement of the Central American question, the *de facto* Government of Greytown. Now that Government claimed a right to the isthmus called Punta Arenas over against Greytown, on the other side of the River San Juan, and, on the written request of the Accessory Transit Company, dated the 11th of June, 1851, to the effect that the Company desired the use of a portion of the land on the other side of the harbour near Punta Arenas, measuring 200 feet east to west, and 400 feet north to south, the Government of Greytown had ceded that portion of land to the Company at a nominal rent, "until the land in question might be required for the purposes of the Mosquito Government." This agreement therefore clearly shows that the Accessory Transit Company considered the land in question as dependent on Greytown, and that they were bound to evacuate it whenever required by the Government of Greytown. They were so required in February last, and refused; and the United States' commander not only supported them in that refusal, but landed an armed force to protect them against the authorities of Greytown. It was this act that Her Majesty's Government considered as opposed to the mutual instructions given, and the understanding entered into in 1852 between Great Britain and the United States; and they instructed you accordingly to make a representation against it, and to request that fresh instructions might be sent out to prevent a recurrence of such proceedings.

Her Majesty's Government fully admit that the conduct of the Government of Greytown, in the violent measures which they took for forcibly ejecting the Accessory Transit Company from Punta Arenas, was injudicious and intemperate, and they have made known that opinion to those authorities. But that conduct does not, in the judgment of Her Majesty's Government, justify the strong measure of coercion adopted by Captain Hollins against the Greytown Government. In fact nothing could, in the opinion of Her Majesty's Government, warrant either an United States or a British naval officer, under their mutual instructions, in landing armed men from their ships at Punta Arenas for the protection of the Accessory Transit Company against the enforcement of the terms of a written agreement by the *de facto* Government of Greytown, with which the agreement had been voluntarily made.

It was quite competent to the United States' commander to use the most urgent means of persuasion with the Government of Greytown to induce them to desist from their ill-judged course of violence, but not to employ an armed force for that purpose.

Mr. Marcy observes that if, as Nicaragua asserts, Punta Arenas is within

the territorial limits of Nicaragua, the right of the Accessory Transit Company can hardly be drawn in question, because they hold their charter from the Government of Nicaragua. But the fact of the Company having rented Punta Arenas, as above described, from Greytown by a voluntary written agreement, founded on their own application, sets this question at rest; for having acknowledged the right of Greytown, and held under that acknowledgment, the Company cannot now turn round and acknowledge the opposite right of Nicaragua.

Her Majesty's Government deeply regret the language which the United States' Secretary of State has thought it expedient to employ in his despatch in speaking of the Mosquito country and of Nicaragua. Her Majesty's Government were necessarily conscious of the light in which the Government of the United States had always, and it is admitted consistently, viewed the Mosquito country. But the United States' Government were equally cognizant of the long-standing relations of Great Britain with that country, and of the moral impossibility of her abandoning that country and its ruler, after ages of protection afforded to them, without making such terms in their favour as should be consistent with their own fair claims, and with the dignity and honour of the British Crown.

Under this well-known difference of views it was the more to be desired that both Governments should sedulously abstain from all language calculated to bring that difference more prominently into view; and that they should, on the contrary, employ their best efforts to throw that difference into the shade, and to settle the question at issue in a manner equally beneficial and creditable to both.

I have already stated in my despatch of the 27th of May, that until the general Central American question shall have been finally determined, Her Majesty's Government must regard the territorial rights of Mosquito, including Greytown (saving the *de facto* arrangement entered into with regard to the latter) in the same light in which they have always been regarded by Great Britain; and that Her Majesty's Government cannot recognize any pretension on the part of Nicaragua or of Honduras to any part of that territory. They must, on the contrary, continue to resist any such pretension. In repeating this declaration, however, Her Majesty's Government again, and in the most cordial manner, invite the United States' Government to join with them in devising and carrying out such an arrangement with regard to the Mosquito country, and Central America generally, as shall both tend to remove any chance of future misunderstanding between two great and kindred countries, and shall also afford a better prospect than now exists of bringing into the pale of political and commercial enlightenment a vast and noble region lying between the northern and southern continents of America, which, to all practical intents, is now lost to the world.

I am, &c.

(Signed) CLARENDON.

No. 172.

Mr. Crampton to the Earl of Clarendon.—(Received August 29.)

My Lord,

Washington, August 14, 1853.

ALTHOUGH I was not instructed to read to Mr. Marcy your Lordship's despatch of the 22nd ultimo, upon the subject of the proceedings at Greytown of Captain Hollins, of the United States' ship "Cyane," I have thought it would be expedient to do so, and to leave him a copy of it, from the following considerations, which I hope will meet your Lordship's approval.

Your Lordship's despatch contains a distinct statement of an important fact which Mr. Marcy seemed in his despatch to Mr. Ingersoll to have lost sight of, or not to have been informed of. I mean the fact that the Transit Company had made a voluntary application to the authorities of Greytown for

a grant of a portion of land at Punta d'Arenas, and entered into an agreement therefor, by which they engaged themselves to evacuate it whenever called upon by the Government of Greytown.

I found upon conversing with Mr. Marcy that he had in fact been misinformed upon this subject, as he stated to me, by Mr. Joseph L. White, the legal adviser and agent of the Company at New York, who asserted that no such contract had been entered into by the Company; and I therefore felt anxious to correct the erroneous impression under which Mr. Marcy was labouring.

Mr. Marcy's observations in regard to your Lordship's despatch were couched in friendly language. He entirely disclaimed any intention of adopting a hostile tone in his despatch to Mr. Ingersoll of the 9th of June last, and he remarked that if the difference of the views of the two Governments in regard to the Mosquito title had been brought forward prominently in that despatch, although the opinion of the United States' Government was, as your Lordship observed, already well known to Her Majesty's Government, this had been done from a feeling on the part of the present Administration of the United States, which had but lately acceded to office, that the possibility of any misunderstanding as to their views should be avoided.

I have, &c.

(Signed) JOHN F. CRAMPTON.

No. 173.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, September 2, 1853.

I APPROVE of your having given to Mr. Marcy, as reported in your despatch of the 14th ultimo, a copy of my despatch dated the 22nd July, respecting the proceedings of Captain Hollins at Greytown.

I am, &c.

(Signed) CLARENDON.

No. 174.

Mr. Crampton to the Earl of Clarendon.—(Received September 26.)

(Extract.)

Washington, September 11, 1853.

I HAVE not failed to inquire of Mr. Marcy whether there is any truth in the allegation which has been made to Her Majesty's Consul-General in Central America, that the United States have offered to the Government of Guatemala to support any claim which Guatemala may choose to put forward to Belize and the adjacent territory.

Mr. Marcy replied, without hesitation, that the allegation is utterly untrue.

"Not only," said Mr. Marcy, "has no such offer been made to Guatemala by the United States' Government, but it is, moreover, my decided opinion, after a careful examination of the subject, as well as the opinion of, I believe, every other member of the Cabinet, that the claim of Guatemala is unfounded; and of this opinion I believe M. Molina is well aware. There can be no doubt," he added, "that the Settlement of Belize is situated in Old Guatemala, and that consequently Mexico has inherited whatever interest Spain had in that territory before the emancipation of her American colonies. Your title, therefore, under the Treaty with Spain of 1786 within the limits there assigned, and confirmed by your Treaty with Mexico of 1826, appears to be indubitable."

No. 175.

Statement for the Earl of Clarendon.

WHEN the negotiations commenced which resulted in the conclusion of the Clayton and Bulwer Convention of the 19th April, 1850, the British Government were in possession of the whole extensive coast of Central America, sweeping round from the Rio Hondo to the port and harbour of San Juan de Nicaragua, except that portion of it between the Sarstoon and Cape Honduras, together with the adjacent Honduras island of Ruatan.

The Government of the United States seriously contested the claim of Great Britain to any of these possessions, with the single exception of that part of the Belize Settlement lying between the Rio Hondo and the Sibun, the usufruct of which, for a special purpose, and with a careful reservation of his sovereign rights over it, had been granted by the King of Spain to the British under the Treaty of 1786.

The progress of events had rendered Central America an object of special interest to all the commercial nations of the world, on account of the railroads and canals then proposed to be constructed through the Isthmus, for the purpose of uniting the Atlantic and Pacific Oceans.

Great Britain and the United States both having large and valuable possessions on the shores of the Pacific, and an extensive trade with the countries beyond, it was natural that the one should desire to prevent the other from being placed in a position to exercise exclusive control, in peace or in war, over any of the grand thoroughfares between the two oceans. This was a main feature of the policy which dictated the Clayton and Bulwer Convention. To place the two nations on an exact equality, and thus to remove all causes of mutual jealousy, each of them agreed, by this Convention, never to occupy, fortify, or exercise dominion over any portion of Central America. Both parties adopted this self-denying ordinance, for the purpose of terminating serious misunderstandings then existing between them which might have endangered their friendly relations.

Whether the United States acted wisely or not, in relinquishing their right, as an independent nation, to acquire territory in a region on their own continent, which may become necessary for the security of their communication with their important and valuable possessions on the Pacific, is another and a different question. But they have concluded the Convention; their faith is pledged; and under such circumstances they never look behind the record.

The language of the Convention is properly mutual, though, in regard to the United States, it can only restrain them from making future acquisitions; because it is well known that, in point of fact, they were not in the occupation of a foot of territory in Central America. In reference to Great Britain, the case is different, and the language applies not only to the future, but to the past; because she was then in the actual exercise of dominion over a very large portion of the eastern coast of Central America. Whilst, therefore, the United States had no occupancy to abandon under the Convention, Great Britain had extensive possessions to restore to the States of Guatemala, Honduras, and Nicaragua.

And yet the British Government, up till the present moment, have not deemed it proper to take the first step towards the performance of their obligations under this Convention. They are still in the actual occupancy of nearly the whole coast of Central America, including the Island of Ruatan, in the very same manner that they were before its conclusion. This delay on their part surely cannot proceed from any obscurity in the language of the Convention. The first Article declares that the Governments of the United States and Great Britain agree that neither will "occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America." And from abundant caution, in view of the Mosquito Protectorate, the Article proceeds as follows: "Nor will either make use of any protection which either affords, or may afford, or any alliance which either has or may have to or with any State or people for the purpose of

* * * * occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, or of assuming or exercising dominion over the same." This, rendered into plain English, is, that the parties shall not exercise dominion over any part of Central America, either directly or indirectly, either by themselves or in the name of others.

It has been said that the first Article of the Convention acknowledges, by implication, the right of Great Britain to the Mosquito Protectorate; a right which the United States have always contested and resisted—a right which would continue to Great Britain that entire control over the Nicaragua Ship-Canal, and the other avenues of communication between the two oceans, which it was the very object of the Convention to abolish; and to defeat that equality between the parties in Central America which was its special purpose to secure. Surely the United States could never have been guilty of such a suicidal absurdity.

But admitting, for the sake of argument merely, that the United States have acknowledged the existence of this protectorate, restricted in its use as it has been by the Convention, it would be difficult to conceive for what object of the least importance it could be employed. It assuredly could not be for the purpose of "occupying the Mosquito Coast," or "of assuming or exercising dominion over the same," because this has been expressly prohibited by the Convention.

Great Britain has not even retired from the Island of Ruatan in obedience to the Convention. Here no question can possibly arise from any alleged Mosquito protectorate. This is clearly a Central American island belonging to the State of Honduras, and but thirty miles distant from her port of Truxillo. If the Convention plainly embraces any object whatever, surely this must be Ruatan.

And yet Great Britain has not only continued to occupy this island, but, since the date of the Convention, she has actually established a Colonial Government over it; and not over it alone, but adding thereto five other neighbouring islands on the Central American coast, has converted them all into the British colony of the "Bay Islands." Public sentiment is quite unanimous in the United States that the establishment of this Colony is a palpable violation both of the letter and the spirit of the Clayton and Bulwer Convention.

Ruatan is well known to be an island of great value and importance on account of its excellent harbours, which are rare along that coast. Indeed, it has been described by a Spanish author "as the key of the Bay of Honduras, and the focus of the trade of the neighbouring countries." Such is its commanding geographical position, that Great Britain, in possession of it, could completely arrest the trade of the United States on its passage to and from the Isthmus. In vain may the Convention have prohibited Great Britain from erecting or maintaining any fortifications commanding the Nicaraguan Canal, or in other portions of Central America, if she shall continue to exercise dominion over the "Bay Islands."

The United States now only ask that this Convention shall be faithfully executed by both parties. They wish that every avenue of communication across the isthmus shall be opened, not merely for their own benefit but for that of Great Britain and the whole world. In this respect they would not, if they could, acquire any peculiar advantages, because these would arouse the jealousy and distrust of other nations.

The rights and duties of the respective parties have been ascertained and determined by the Convention itself; but as the justice of the previous claim of Great Britain to her possessions in Central America has been since asserted in high quarters, it may not be improper to present the views of the Government of the United States upon this subject.

It need scarcely be repeated that the United States have always denied the validity of this claim. They believe that Great Britain has surrendered nothing under the Convention which she would not have voluntarily done from her own magnanimity and sense of justice, as soon the question was brought home to her serious consideration.

It would be a vain labour to trace the history of the connection of Great Britain with the Mosquito shore and other portions of Central

America, previous to her Treaties with Spain of 1783 and 1786. This connection doubtless originated from her desire to break down the monopoly of trade which Spain so jealously enforced with her American colonies, and to introduce into them British manufactures. The attempts of Great Britain to accomplish this object were pertinaciously resisted by Spain, and became the source of continual difficulties between the two nations. After a long period of strife these were happily terminated by the Treaties of 1783 and 1786, in as clear and explicit language as ever was employed on any similar occasion; and the history of the time rendered the meaning of this language, if possible, still more clear and explicit.

The VIth Article of the Treaty of Peace of 3rd September, 1783, was very distasteful to the King and Cabinet of Great Britain. This abundantly appears from Lord John Russell's "Memorials and Correspondence of Charles James Fox." The British Government, failing in their efforts to have this Article deferred for six months, finally yielded a most reluctant consent to its insertion in the Treaty.

Why this reluctant consent? Because the VIth Article stipulates that, with the exception of the territory between the River Wallis or Belize and the Rio Hondo, within which permission was granted to British subjects to cut logwood, "all the English who may be dispersed in any other parts, whether on the Spanish continent (*"continente Espagnol"*), or in any of the islands whatsoever dependent on the aforesaid Spanish continent, and for whatever reason it might be, without exception, shall retire within the district above described in the space of eighteen months, to be computed from the exchange of ratifications."

And the Treaty further expressly provides, that the permission granted to cut logwood "shall not be considered as derogating, in any wise, from his [Catholic Majesty's] rights of sovereignty" over this logwood district; and it stipulates, moreover, "that if any fortifications should have been actually heretofore erected within the limits marked out, His Britannic Majesty shall cause them all to be demolished, and he will order his subjects not to build any new ones."

But, notwithstanding these provisions, in the opinion of Mr. Fox, it was still in the power of the British Government "to put our [their] own interpretation upon the words '*continente Espagnol*,' and to determine, upon prudential considerations, whether the Mosquito shore comes under that description or not."

Hence the necessity for new negotiations which should determine, precisely and expressly, the territory embraced by the Treaty of 1783. These produced the Convention of the 14th of July, 1786; and its very first Article removed every doubt on the subject. This declared that "His Britannic Majesty's subjects, and the other colonists who have hitherto enjoyed the protection of England, shall evacuate the country of the Mosquitos, as well as the continent in general, and the islands adjacent, without exception," situated beyond the new limits prescribed by the Convention within which British subjects were to be permitted to cut, not only logwood but mahogany and all other wood; and even this district is "indisputably acknowledged to belong of right to the Crown of Spain."

Thus, what was meant by the "*continente Espagnol*" in the Treaty of 1783, is defined, beyond all doubt, by the Convention of 1786; and the sovereignty of the Spanish King over the Mosquito shore, as well as over every other portion of the Spanish continent and the islands adjacent, is expressly recognised.

It was just that Great Britain should interfere to protect the Mosquito Indians against the punishment to which they had exposed themselves as her allies from their legitimate and acknowledged Sovereign. The XIVth Article of the Convention, therefore, provides that "His Catholic Majesty, prompted solely by motives of humanity, promises to the King of England that he will not exercise any act of severity against the Mosquitos inhabiting in part the countries which are to be evacuated by virtue of the present Convention, on account of the connections which may have subsisted between the said Indians and the English: and His Britannic

Majesty, on his part, will strictly prohibit all his subjects from furnishing arms or warlike stores to the Indians in general situated upon the frontiers of the Spanish possessions."

British honour required that these Treaties with Spain should be faithfully observed; and from the contemporaneous history no doubt exists but that this was done; that the orders required by the XVth Article of the Convention were issued by the British Government, and that they were strictly carried into execution.

In this connection a reference to the significant proceedings in the House of Lords on the 26th of March, 1787, ought not to be omitted. On that day a motion was made by Lord Rawdon "that the terms of the Convention of July 14, 1786, do not meet the favourable opinion of this House." The motion was discussed at considerable length, and with great ability. The task of defending the Ministry upon this occasion was undertaken by Lord Chancellor Thurlow, and was most triumphantly performed. He abundantly justified the Ministry for having surrendered the Mosquito shore to Spain; and proved that "the Mosquitos were not our allies; they were not a people we were bound by Treaty to protect." His Lordship repelled the argument that the Settlement was a regular and legal Settlement with some sort of indignation; and so far from agreeing, as had been contended, that we had remained uniformly in the quiet and unquestionable possession of our claim to the territory, he called upon the noble Viscount Stormont to declare, as a man of honour, whether he did or not know the contrary.

Lord Rawdon's motion to condemn the Convention was rejected by a vote of 53 to 17.

It is worthy of special remark that all sides of the House, whether approving or disapproving the Convention, proceeded upon the express admission that it required Great Britain, employing its own language, "to evacuate the country of the Mosquitos." On this question the House of Lords were unanimous.

At what period then did Great Britain renew her claims to "the country of the Mosquitos, as well as the continent in general; and the islands adjacent without exception?" It certainly was not in 1801, when, under the Treaty of Amiens, she acquired the Island of Trinidad from Spain, without any mention whatever of further acquisitions in America. It certainly was not in 1809, when she entered into a Treaty of Alliance, offensive and defensive, with Spain, to resist the Emperor Napoleon in his attempt to conquer the Spanish monarchy. It certainly was not in 1814, when the commercial Treaties which had previously existed between the two Powers, including, it is presumed, those of 1783 and 1786, were revived. On all these occasions there was no mention whatever of any claims of Great Britain to the Mosquito Protectorate, or to any of the Spanish-American territories which she had abandoned. It was not in 1817 and 1819, when Acts of the British Parliament (57 and 59 Geo. III) distinctly acknowledged that the British Settlement at Belize was "not within the territory and dominion of His Majesty," but was merely "a Settlement for certain purposes, in the possession and under the protection of His Majesty;" thus evincing a determined purpose to observe with the most scrupulous good faith the Treaties of 1783 and 1786 with Spain.

In the very sensible book of Captain Bonnycastle, of the corps of British Royal Engineers, "On Spanish America," published at London, in 1818, he gives no intimation whatever that Great Britain had revived her claim to the Mosquito Protectorate. On the contrary, he describes the Mosquito shore as "a tract of country which lies along part of the northern and eastern shore of Honduras," which had "been claimed by the British." He adds, the English held this country for eighty years and abandoned it in 1787 and 1788."

Thus matters continued until a considerable period after 1821, in which year the Spanish provinces composing the Captain-Generalship of Guatemala asserted and maintained their independence of Spain. It would be a work of supererogation to attempt to prove, at this period of the world's history, that these provinces having, by a successful revolu-

tion, become independent States, succeeded within their respective limits to all the territorial rights of Spain. This will surely not be denied by the British Government, which took so noble and prominent a part in securing the independence of all the Spanish-American provinces.

Indeed, Great Britain has recorded her adhesion to this principle of international law in her Treaty of December 26, 1826, with Mexico, then recently a revolted Spanish colony. By this Treaty, so far from claiming any right beyond the usufruct which had been conceded to her under the Convention with Spain of 1786, she recognises its continued existence and binding effect, as between herself and Mexico, by obtaining and accepting from the Government of the latter, a stipulation that British subjects shall not be "disturbed or molested in the peaceable possession and exercise of whatever rights, privileges, and immunities, they have at any time enjoyed within the limits described and laid down" by that Convention. Whether the former Spanish sovereignty over Belize, subject to the British usufruct, reverted of right to Mexico or to Guatemala may be seriously questioned; but, in either case, this recognition by Great Britain is equally conclusive.

And here it may be appropriate to observe, that Great Britain still continues in possession not only of the district between the Rio Hondo and the Sibun, within which the King of Spain had granted her a license to cut mahogany and other woods; but the British settlers have extended this possession south to the River Sarstoon, one degree and a half of latitude beyond "the limits described and laid down" by this Convention. It is presumed that the encroachments of these settlers south of the Sibun have been made without the authority or sanction of the British Crown, and that no difficulty will exist in their removal.

Yet, in view of all these antecedents, the Island of Ruatan, belonging to the State of Honduras, and within sight of its shores, was captured in 1841 by Colonel McDonald, then Her Britannic Majesty's Superintendent at Belize, and the flag of Honduras was hauled down, and that of Great Britain was hoisted in its place. This small State, incapable of making any effectual resistance, was compelled to submit, and the island has ever since been under British control. What makes this event more remarkable is, that it is believed a similar act of violence had been committed on Ruatan by the Superintendent of Belize in 1835; but on complaint by the Federal Government of the Central American States then still in existence, the act was formally disavowed by the British Government, and the island was restored to the authorities of the Republic.

No question can exist but that Ruatan was one of the "islands adjacent" to the American continent which had been restored by Great Britain to Spain under the Treaties of 1783 and 1786. Indeed, the most approved British gazeteers and geographers, up till the present date, have borne testimony to this fact, apparently without information from that hitherto but little known portion of the world, that the island had again been seized by Her Majesty's Superintendent at Belize, and was now a possession claimed by Great Britain.

When Great Britain determined to resume her dominion over the Mosquito shore, in the name of a Protectorate, is not known with any degree of certainty in the United States. The first information on the subject in the Department of State at Washington was contained in a despatch of the 20th January, 1842, from William S. Murphy, Esquire, Special Agent of the American Government to Guatemala, in which he states that in a conversation with Colonel McDonald at Belize, the latter had informed him that he had discovered and sent documents to England, which caused the British Government to revive their claim to the Mosquito territory.

According to Bonnycastle, the Mosquito shore "lies along part of the northern and eastern shore of Honduras;" and by the map which accompanies his work, extends no further south than the mouth of the River Segovia, in about 12° north latitude. This respectable author certainly never could have imagined that it extended south to San Juan de Nicaragua, because he describes this as the principal seaport of Nicaragua on the Caribbean Sea, says there are "three portages" between the lake and the mouth of the river, and "these carrying-places are defended, and

at one of them is the Fort San Juan, called also the Castle of Nuestra Señora, on a rock, and very strong; it has thirty-six guns mounted, with a small battery, whose platform is level with the water; and the whole is inclosed on the land side by a ditch and rampart. Its garrison is generally kept up at 100 Infantry, 16 Artillerymen, with about 60 of the Militia, and is provided with bateaux, which row guard every night up and down the stream." Thus it appears that the Spaniards were justly sensible of the importance of defending this outlet from the Lake of Nicaragua to the ocean; because, as Captain Bonnycastle observes, "this port (San Juan) is looked upon as the key of the Americas; and with the possession of it and Realejo on the other side of the lake, the Spanish colonies might be paralyzed, by the enemy being then master of the ports of both oceans." He might have added, that nearly sixty years ago, on the 26th February, 1796, the Port of San Juan de Nicaragua was established as a port of entry of the second class by the King of Spain. Captain Bonnycastle, as well as the Spaniards, would have been greatly surprised had they been informed that this port was a part of the dominions of His Majesty the King of the Mosquitos, and that the cities and cultivated territories of Nicaragua surrounding the Lakes Nicaragua and Managua had no outlet to the Caribbean Sea, except by his gracious permission.

It was, therefore, with profound surprise and regret the Government and people of the United States learned that a British force, on the 1st of January, 1848, had expelled the State of Nicaragua from San Juan, had hauled down the Nicaraguan flag, and had raised the Mosquito flag in its place. The ancient name of the town San Juan de Nicaragua, which had identified it all former times as belonging to Nicaragua, was on this occasion changed, and thereafter it became Greytown.

These proceedings gave birth to serious apprehensions throughout the United States that Great Britain intended to monopolise for herself the control over the different routes between the Atlantic and the Pacific, which, since the acquisition of California, had become of vital importance to the United States. Under this impression it was impossible that the American Government could any longer remain silent and acquiescing spectators of what was passing in Central America.

Mr. Monroe, one of our wisest and most discreet Presidents, announced in a public message to Congress in December 1823, that "the American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered subjects for future colonization by any European Powers." This declaration has since been known throughout the world as the "Monroe doctrine," and has received the public and official sanction of subsequent Presidents, as well as of a large majority of the American people.

Whilst this doctrine will be maintained whenever, in the opinion of Congress, the peace and safety of the United States shall render this necessary, yet to have acted upon it in Central America might have brought us into collision with Great Britain—an event always to be deprecated, and if possible avoided. We can do each other the most good, and the most harm, of any two nations in the world; and therefore it is our strong mutual interest, as it ought ever to be our strong mutual desire, to remain the best friends. To settle these dangerous questions, both parties wisely resorted to friendly negotiations, which resulted in the Convention of April 1850. May this prove to be instrumental in finally adjusting all questions of difficulty between the parties in Central America, and in perpetuating their peace and friendship!

Surely the Mosquito Indians ought not to prove an obstacle to so happy a consummation. Even if these savages had never been actually subdued by Spain, this would give them no title to rank as an independent State, without violating the principles and the practice of every European nation, without exception, which has acquired territory on the continent of America. They all mutually recognised the right of discovery, as well as the title of the discoverer to a large extent of interior territory, though at the moment occupied by fierce and hostile tribes of Indians. On this principle the wars, the negotiations, the cessions, and the jurisprudence

of these nations were founded. The ultimate dominion and absolute title belonged to themselves, although several of them, and especially Great Britain, conceded to the Indians a right of mere occupancy, which, however, could only be extinguished by the authority of the nation within whose dominions these Indians were found. All sales or transfers of territory made by them to third parties were declared to be absolutely void; and this was a merciful rule even for the Indians themselves, because it prevented them from being defrauded by dishonest individuals.

No nation has ever acted more steadily upon these principles than Great Britain; and she has solemnly recognised them in her Treaties with the King of Spain of 1783 and 1786, by admitting his sovereignty over the Mosquitos.

Shall the Mosquito tribe of Indians constitute an exception from this hitherto universal rule? Is there anything in their character or in their civilization which would enable them to perform the duties and sustain the responsibilities of a sovereign State in the family of nations?

Bonnycastle says of them, that they "were formerly a very powerful and numerous race of people, but the ravages of rum and the small-pox have diminished their number very much." He represents them, on the authority of British settlers, as seeming "to have no other religion than the adoration of evil spirits." The same author also states, that "the warriors of this tribe are accounted at fifteen hundred." This possibly may have been correct in 1818, when the book was published, but at present serious doubts are entertained whether they reach much more than half that number. The truth is they are now a debased race, and are degraded even below the common Indian standard. They have acquired the worst vices of civilization from their intercourse with the basest class of the whites, without any of its redeeming virtues. The Mosquitos have been thus represented by a writer of authority who has recently enjoyed the best opportunities for personal observation. That they are totally incapable of maintaining an independent civilized Government is beyond all question. Then in regard to their so-called King, Lord Palmerston in speaking of him to Mr. Rives, in September 1851, says, "They had what was called a King; who by-the-bye," he added in a tone of pleasantry, "was as much of a King as you or I." And Lord John Russell, in his despatch to Mr. Crampton of the 19th of January, 1853, denominates the Mosquito Government as "a fiction;" and speaks of the King as a person "whose title and power are, in truth, little better than nominal."

The moment Great Britain shall withdraw from Blewfields, where she now exercises exclusive dominion over the Mosquito shore, the former relations of the Mosquitos to Nicaragua and Honduras as the successors of Spain, will naturally be restored. When this event shall occur, it is to be hoped that these States, in their conduct towards the Mosquitos and the other Indian tribes within their territories, will follow the example of Great Britain and the United States. Whilst neither of these has ever acknowledged or permitted any other nation to acknowledge any Indian tribe, within their limits, as an independent people, they have both recognised the qualified right of such tribes to occupy the soil, and as the advance of the White Settlements rendered this necessary, have acquired their title by a fair purchase.

Certainly it cannot be desired that this extensive and valuable Central American coast, on the highway of nations between the Atlantic and Pacific, should be appropriated to the use of 3,000 or 4,000 wandering Indians, as an independent State, who would use it for no other purpose than that of hunting and fishing, and savage warfare. If such an event were possible the coast would become a retreat for pirates and outlaws of every nation, from whence to infest and disturb the commerce of the world on its transit across the Isthmus; and but little better would be its condition should a new independent State be established on the Mosquito shore. Besides, in either event, the present Central American States would deeply feel the injustice which had been done them in depriving them of a portion of their territories; they would never cease in attempts to recover their rights, and thus strife and contention would be perpe-

tuated in that quarter of the world where it is so much the interest both of Great Britain and the United States that all territorial questions shall be speedily, satisfactorily, and finally adjusted.

London, January 6, 1854.

(Signed) JAMES BUCHANAN.

No. 176.

Statement to Mr. Buchanan.

THE substance of the case submitted to Her Majesty's Government by Mr. Buchanan may be briefly stated as follows:

1. That Great Britain, prior to April 1850, was "in possession of the whole coast of Central America, from the Rio Hondo to the Port and Harbour of San Juan de Nicaragua, except that portion of it between the Sarstoon and Cape Honduras, together with the adjacent Honduras island of Ruatan."

2. That the Government of the United States does not understand under what title Great Britain, having abandoned the greater part of these possessions in 1786, resumed them subsequently; nor does it know precisely at what period the protectorate of Great Britain over Mosquito was reestablished, the first intimation which the United States' Government had received on the subject being from an American agent in 1842; and that, moreover, Captain Bonnycastle, and other authorities, had never represented the Mosquito shore as extending as far as the river and town of San Juan de Nicaragua, which latter the Spaniards had considered a place of much importance, and the key to the Americas.

3. That it appears to the United States' Government that Spain, in virtue of the Treaty of 1786, had a right to object to Great Britain establishing herself on the Mosquito coast, or assuming the protectorate of Mosquito; and that Great Britain had by her Treaty with Mexico recognised that the former Colonies of Spain stood in the same position with respect to other States as Old Spain herself, and inherited the advantages of the ancient Treaties of the mother country; that the United States' Government had always contested the claim of Great Britain to all the possessions held by her in Central America, with the exception of that portion of the Settlement of Belize which is situated between the Rio Hondo and the Sibun; that it had always resisted the right of Great Britain to establish a protectorate over the Mosquitos; and that it had learnt with great surprise and regret that the British forces had in 1848 expelled the Nicaraguan authorities, which held the port and town of San Juan de Nicaragua in virtue of the Old Spanish rights, and had then hoisted thereupon the flag of the Mosquitos.

4. That Mr. Monroe, when President of the United States, had, in 1823, announced in a public Message to Congress that the American Continents were not henceforth to be considered subject to colonization by European Powers.

5. That no claim on the part of Great Britain to act in the name or under the authority of the Mosquito Indians could be well founded, inasmuch as that race, even if never conquered by Spain, were savages who, according to the practice and principles of all European nations which had ever acquired territory on the continent of America, had no title to rank as independent States in the territory they occupied, but had a claim to mere occupancy thereon, such territory being the dominion of the discoverer of it, or even of the discoverer of territory on the same continent, though far distant from it, by whom alone this claim to mere occupancy on the part of the Indians was to be extinguished by purchase as the advances of the White Settlements rendered it necessary.

And finally, that Great Britain, having declared by Treaty in 1850, that she would neither colonize, fortify, occupy, nor assume dominion over Mosquito or Central America, was thereby, at all events, bound to withdraw her protection from the people and territory of the Mosquitos, and moreover to deliver up Ruatan, which was an island belonging to Honduras,

a Central American State, but which, nevertheless, had recently been colonized and occupied by Great Britain.

Such are the main points brought forward by Mr. Buchanan in the statement which he has delivered to Her Majesty's Government.

If, in speaking of the possessions held by Great Britain previous to 1850 on the coast of Central America (the Settlement of Belize excepted), Mr. Buchanan means that his expressions should apply to that district which is called the Mosquito country, it is proper that Her Majesty's Government should at once state that Her Majesty has never held any *possessions* whatsoever in the Mosquito country. But, although Great Britain held no *possessions* in the Mosquito country, she undoubtedly exercised a great and extensive influence over it as the protecting ally of the Mosquito King; that King or Chief having occasionally been even crowned at Jamaica under the auspices of the British authorities.

The United States' Government will, it is apprehended, scarcely expect that Great Britain should enter into any explanation or defence of her conduct with respect to acts committed by her nearly forty years ago, in a matter in which no right or possession of the United States was involved.

The Government of the United States would, it is conceived, be much and justly surprised if the Government of Great Britain were now to question the propriety of any of its own long-past acts by which no territorial right of Great Britain had been affected; nor would the American people consider any justification or explanation of such acts to foreign States, consistent with the dignity and independent position of the United States.

The Government of the United States, therefore, will not be surprised if the Government of Great Britain abstains on this occasion from entering into anything which might appear an explanation or defence of its conduct with regard to its long-established protectorate of the Mosquitos.

With respect to any right, or any interference, on the part of the Government of Old Spain on the subject of the Mosquito Protectorate, it must be observed that since the Peace of 1815 that Government has never raised any question with respect to this Protectorate; and as for Great Britain having by her Treaty with Mexico recognized, as a principle, that the engagements between herself and Spain were necessarily transferred to every fraction of the Spanish monarchy which now exists, or may exist, on a distinct and independent basis, Her Majesty's Government must entirely deny this assumption. Great Britain, in her Treaty with Mexico, simply stipulates that British subjects should not be worse off under Mexico independent than under Mexico when a Spanish province. It was natural, in recognising the independence of Mexico, that Great Britain should make such a stipulation; but the fact of her doing so rather proves that she thought a special stipulation necessary, and that she did not conceive that she would have enjoyed under any general principle the privilege she bargained for; and this stipulation, as indeed the Treaty itself, is a proof that Mexico was not considered as inheriting the obligations or rights of Spain.

But admitting that it may in some cases be expedient, although not obligatory, to recognise the rights and obligations of Old Spain as vested in the new Spanish-American States; and allowing that, in conformity with that policy, Great Britain might have thought proper to receive, concerning Mosquito, the remonstrances of those neighbouring Republics which have successively risen in America on the ruins of the Spanish Empire; even then it may be observed that no remonstrance was made by any of such Republics for many years after the protectorate of Great Britain over Mosquito had been a fact well known to them; and, moreover, that when such remonstrances were made, they were made with similar pretensions, not by one only, but by several, of those Governments, inasmuch that, if the Mosquito Indians were at this moment withdrawn altogether from the portion of America which they now inhabit, and if it were permitted to the States of Spanish origin to inherit, each respectively, the claims of their parent State, it would still be a question on which of the claimants the territory thus left unoccupied would of right devolve; whilst it is certain that such withdrawal, without previous

arrangements, would lead to contests alike disadvantageous to the real interests of the several States, and to the general prosperity of Central America herself.

Thus much with reference to the conduct and position of Spain and the Central American States with regard to the British protectorate in Mosquito; but, with respect to the conduct and position of the United States relative thereto, Mr. Buchanan is mistaken in thinking that the United States' Government has always contested and resisted the position assumed by Great Britain on the Mosquito coast.

It may be true that the United States were not informed of the position of Great Britain in respect to Mosquito until 1842, but they were then informed of it; and yet there is no trace of their having alluded to this question in their communications with Her Majesty's Government up to the end of 1849. Nay, in 1850, when the President of the United States presented to Congress various papers relative to the affairs of Central America, it will be seen that, on introducing these affairs to the attention of Congress, the President's Secretary of State for Foreign Affairs expressly says that the Government of Nicaragua, in November 1847, solicited the aid of the United States' Government to prevent an anticipated attack on San Juan by the British forces acting on behalf of the Mosquito King, but received no answer: That the President of Nicaragua addressed the President of the United States at the same time, and received no answer: That, in April 1848, the United States' Consul at Nicaragua, at the request of the Minister of Foreign Affairs of that Republic, stated the occupation of San Juan by a British force, but was not answered: That on the 5th November, 1848, M. Castellon, proceeding to London from Nicaragua and then to Washington, addressed a letter to the United States' Secretary of State, soliciting his intervention with regard to the claims of Great Britain in right of the Mosquito King, and received no answer: That on the 12th of January, 1849, Mr. Bancroft, then Representative of the United States to the Court of St. James, referring to M. Castellon's arrival in London, and the subject of his mission to settle the affairs of San Juan de Nicaragua with the British Government, said: "I think it proper to state to you my opinion that Lord Palmerston will not recede. I have of course taken no part;" and that again, in March, Mr. Bancroft wrote that M. Castellon would be anxious to seek advice from the United States, but that he had always made answer to him "that he was not authorised to offer advice."

It would thus seem, on the authority of the United States' Government itself, that up to the end of 1849, the United States' Government had made no remark or remonstrance to Great Britain on the subject of her protectorate of Mosquito; and that even with respect to the capture of San Juan de Nicaragua (now called Greytown), the United States' Minister in London was not authorised to take any steps concerning it, nor even to afford to the Commissioner from Nicaragua the benefit of his counsels and good offices thereupon; and it is but right to observe that the United States' Government pursued by this course towards Her Majesty's Government that friendly and considerate policy which Her Majesty's Government always wishes to pursue, and has pursued, towards the United States' Government when that Government has had differences with other Powers.

1. With regard to the grounds on which Her Majesty's Government made the capture of San Juan de Nicaragua in 1848, the desire of Her Majesty's Government to avoid all subjects of controversy on which it is not absolutely necessary to enter, restrains it from here adverting to the documents which stated the reasons on which Her Majesty's Government came to the resolution it at that time adopted; and indeed, as those documents were laid before Parliament, and communicated officially to the United States' Government, it would be superfluous now to recapitulate their contents.

With regard to the doctrine laid down by Mr. President Monroe in 1823, concerning the future colonization of the American continents by European States, as an international axiom which ought to regulate the conduct of European States, it can only be viewed as the dictum of the distinguished personage who delivered it; but Her Majesty's Government

cannot admit that doctrine as an international axiom which ought to regulate the conduct of European States.

The doctrine with regard to the incapacity of the Indians to exercise the rights of Sovereign Powers, must also remain a doctrine on which each State which has to deal with such Indians must be free to exercise its own policy and to follow the dictates of its own conscience.

It is certainly true that Great Britain, Spain, and the United States were all at one time in the habit of treating the Indian races in the manner which Mr. Buchanan describes; but this past practice, though general, cannot be taken as an invariable guide for any future policy. The period has not yet passed beyond the memory of man at which Great Britain and the United States, now so nobly distinguished in suppressing the Slave Trade, practised and encouraged that trade, and deemed it legitimate.

The project of a free Republic, composed chiefly of negroes from the United States, and originally established under the enlightened and humane patronage of the United States, would have been deemed, fifty years ago, an absurd and impossible chimera: yet Liberia exists, and now flourishes as an independent State. Already, Great Britain, in her own dealings with Indians, has recognised their rulers as independent Chiefs; whilst, in her Treaties with foreign Powers, she has spoken of their tribes as nations, and stipulated for the restoration of their possessions.

Thus on all the above-mentioned topics Her Majesty's Government, without seeking to impose any opinions on the United States' Government, claims a right to hold its own opinions; nor does it indeed appear necessary, although doubtless it would be desirable, that Her Majesty's Government and the United States' Government should be perfectly agreed with respect to them.

The one remaining subject to be discussed is, however, of a very different character. It relates to a question in which Great Britain and the United States are both directly concerned, and in regard to which it is a matter both of honour and interest that they should avoid all misunderstandings or disagreements.

This subject is the rightful interpretation of a Treaty engagement to which Great Britain and the United States are parties.

Mr Buchanan lays it down as a fact that Great Britain held the sovereignty of the Mosquito Coast prior to 1850, and he then states that Great Britain still continues to hold this sovereignty, although the Treaty of 1850 prohibits her from so doing.

But Mr. Buchanan confounds the two conditions of a Sovereignty and of a Protectorate, and under this error treats the agreement "not to colonise, nor occupy, nor fortify, nor assume nor exercise dominion over," as including an agreement not to protect.

With respect to sovereignty, Great Britain never claimed, and does not now claim, or hold, any sovereignty in or over Mosquito; but with respect to the Protectorate which Great Britain has long exercised over Mosquito, Her Majesty's Government asserts that the Treaty of 1850 did not, and was not meant to, annihilate such protectorate, but simply to confine its powers and limit its influence.

Now the spirit of a Treaty must always be inferred from the circumstances under which it takes place, and the true construction of a Treaty must be deduced from the literal meaning of the words employed in its framing.

The circumstances under which the Treaty of 1850 took place were the following:—

Up to March 1849, *i. e.*, one whole year after the capture of San Juan de Nicaragua by the British forces, the United States' Government made no observation, as it has already been stated, to the British Government, having any allusion to this act. But in November 1849 Mr. Laurence, then just arrived in England as the Representative of the United States' Government, addressed a note to Lord Palmerston, not asking any question as to the British Protectorate of Mosquito, but requesting to know whether Her Majesty's Government would join with the United States in guaranteeing the neutrality of a ship-canal, railway, or other communication between the two oceans, to be opened to the world, and common to

all nations, and whether the British Government intended to occupy or colonise Nicaragua, Costa Rica, the Mosquito Coast so called, or any part of Central America. To this note Lord Palmerston replied by stating that Her Majesty's Government had no intention to occupy or colonise Nicaragua, Costa Rica, the Mosquito Coast, nor any part of Central America, and that Her Majesty's Government would feel great pleasure in combining and cooperating with the Government of the United States for the purpose of assisting the operations of a Company which might be formed with a view to establish a general communication by canal or railroad across the isthmus separating the northern and southern portions of the American Continent, both by offering security for the works while in progress, and when completed and in use, and by placing such communication, through the means of political arrangements, beyond the reach of molestation, disturbance, or obstacle, by reason of international disputes which may at any time unfortunately arise; upon the conditions, moreover, that such communication should at all times be open and accessible for the commerce of all nations, and on equal terms for all.

These notes, copies of which are hereunto annexed, are of great importance, inasmuch as they laid the foundation for the subsequent Convention of Washington, whilst they explain the nature of the feelings entertained at that time by the United States' Government and by the Government of Her Majesty.

It was clear that the United States' Government, which had regarded the affairs of Central America not long before with comparative indifference, had had its attention lately called to this part of the world by its acquisition of California, and the discovery of the ore which that region was found to contain—circumstances which rendered of vast importance some safe and rapid means of communication between the possessions of the United States on the Pacific, and the possessions of the United States on the Atlantic.

A project of a canal communication, moreover, through the State and Lake of Nicaragua and the River San Juan was then in contemplation, and Nicaragua had granted to a company of American citizens whatever rights it possessed over this proposed line of traffic.

Great Britain, however, by having placed a people under her protection in possession of the port and town of San Juan de Nicaragua, might exert her influence either to prevent this Canal being formed, or, if she allowed it to be formed, might aim, through her Protectorate, at acquiring over such Canal peculiar rights or absolute control.

The Government of the United States was therefore justly anxious to know whether the British Government would favour or impede the construction of a Canal by the River San Juan, and whether it would attempt to establish a predominant and permanent power over this Canal, by colonising, fortifying, occupying, or taking absolute possession of the country through which it passed.

The mere Protectorate of Great Britain, stripped of those attributes which affected the construction and the freedom of the proposed Canal, was of small consequence to the United States; but, connected with those attributes, it was a matter of great importance.

On the other hand, Her Majesty's Government, which had just expelled the Nicaraguans from Greytown (or San Juan de Nicaragua) and the country adjacent, and had formally discussed and finally rejected the claims of the Nicaraguan Government to these contested possessions, could not with honour or credit retire, at the mere interposition of the United States, from the position it had assumed, or abandon the long-established British Protectorate over the Mosquitos, and allow the authorities of Nicaragua to reoccupy the ground from which they had so recently been driven. But Great Britain could clearly engage herself to the United States to do all that was required respecting the construction and protection any of canal-communication to be enjoyed on equal terms by all nations, and she could also limit the powers of her Protectorate over Mosquito so as to remove all suspicion, or possibility, of her using it in any manner that would place such canal-communication under her exclusive authority and dominion.

Thus, when the drawing up of a Treaty afterwards took place, the

object of the British negotiator, and, it must be presumed, that of both negotiators, necessarily was, to draw up such a Convention as, without conceding any specific point on which one party could not in honour yield, would make such concessions on all other points as the other party desired; and if the Convention in question be referred to, it will be seen that it is drawn up carefully in such a manner as to make it a matter of indifference, so far as the Canal is concerned, as to whether the port and town of San Juan are under the modified Protectorate of Great Britain, or under the Government of Nicaragua. Moreover, in drawing up this Treaty, both Mr. Clayton and Sir H. L. Bulwer referred to the notes which had passed between Lord Palmerston and Mr. Laurence, and even made use of the precise terms which had been there employed, from which it must of necessity be inferred that they meant to transfer to their Convention, with the words which they borrowed, the meaning which had previously been attached to those words in the documents from which they extracted them; and a reference to such documents will at once show that Mr. Laurence, while he asked Her Majesty's Government whether it meant to occupy, fortify, colonize, or assume or exercise dominion over Mosquito, did not allude to the Protectorate of Great Britain over that country; and that Lord Palmerston, in declaring that Her Majesty's Government did not intend to do any of these things, expressly left the question concerning the political relations between Great Britain and the Mosquitos untouched.

So much for the spirit which presided over the Convention of 1850.

With regard to the literal meaning; this Treaty declares in words that the two Parties "will not occupy, nor fortify, nor colonize, nor assume nor exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, nor any part of Central America;" and that neither Party will "make use of any protection which either affords or may afford, or any alliance which either has or may have with any state or people for the purpose of * * * occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, or of assuming or exercising dominion over the same."

Mr. Buchanan says, with regard to that portion of the foregoing sentence which restricts the use which Great Britain or the United States might make of any protection which either might afford to any state or people, it has been said that this Article of the Convention acknowledges by implication the Protectorate of Great Britain over Mosquito.

Now, Her Majesty's Government does not pretend that in this Article the United States acknowledged the aforesaid Protectorate of Great Britain in Mosquito; it was never the intention of Her Majesty's Government, or that of the British negotiator, to obtain indirectly that which was not asked for openly; but it is evident that this Article clearly acknowledges the possibility of Great Britain or the United States affording protection to Mosquito or any Central American State, and that the intention of the parties was not to prohibit or abolish, but to limit and restrict, such Protectorate.

But supposing all mention of protection in the Treaty had been omitted, and that the question at issue merely rested on the words "colonize, fortify, occupy, and assume or exercise dominion over," is there any one of these terms which excludes the right of protection, although each of them limits its capability?

Defending or protecting is a temporary act of friendship; occupying, colonizing, fortifying, or acquiring sovereignty, are acts which have a permanent result.

It has never been held that neutral territories or kingdoms over which other kingdoms are prohibited by Treaty from acquiring dominion—which other kingdoms cannot colonize, occupy, nor fortify—may not be defended by such kingdoms at the desire and request of the neutral State; although it would doubtless be necessary for any nation undertaking such defence to declare formally and promise clearly that it would not turn this transitory and allowable act into one of a continuous nature, which engagements had prohibited.

No one will maintain that the bar to colonization or fortifying is a bar to all protection; no one will assert that to afford protection to a State and

establish dominion over it are necessarily the same thing; no one will contend that to send a naval or military force for the purpose of expelling an enemy from the territory of an ally, or of punishing his antagonist, is to hold or occupy the territory of that ally or of his enemy.

Were this the sense of the word as inserted in the Treaty of 1850, as that word is equally applied to all Central America as well as to Mosquito, it would have a far wider signification than Her Majesty's Government contemplated, or than that the United States' Government would, in all probability, admit; for, in such a case, neither Great Britain nor the United States could, in any circumstance, employ force, naval or military, against any Central American State, however great or just the provocation they might receive.

Citizens of the United States, for instance, might on their way from California to Washington be arrested and confined on any suspicion or pretext, and the demands of the United States for their release refused. But is it to be argued, that under such circumstances the United States could not send an armed force into Nicaragua to compel the release of the citizens from California, and chastise those who had unjustly incarcerated them? The United States' Government, however, would be bound to state the object it had in view in sending a force into Nicaragua; it would be bound to declare that it did not mean to colonize, fortify, occupy, or establish its sovereignty over Nicaragua, and by adhering to this pledge its Treaty obligations would be fulfilled.

But surely this dispute as to the nature and meaning of protection is one that should not have arisen with respect to the Treaty of 1850.

The very object and nature of that Treaty ought to manifest that protection is not equivalent to occupation or sovereignty, and that it does not of necessity imply the acquisition of any exclusive advantages to the parties protecting, or give those parties exclusive control over that which is protected. Great Britain and the United States, by the said Treaty, bind themselves to protect certain canals, or railways, which may be formed through various independent States; Great Britain and the United States do not by this protection acquire any right of sovereignty or occupation over such canals or railways, whilst they carefully exclude themselves from having any exclusive control over them, and from deriving from them any exclusive privileges.

It is surely unnecessary further to discuss the construction of the Treaty with reference to the protection of Mosquito. That Her Majesty's Government merely expresses now that view of the Treaty which it entertained, and which it had understood that the Government of the United States entertained, when the Treaty was concluded, is evident from the fact that within little more than a month after the Treaty of 1850 had been ratified, Her Majesty's Minister at Washington entered into further negotiations with the Government of the United States relative to the position of Mosquito, interpreting the Treaty as Her Majesty's Government now interprets it. That there was nothing extraordinary, unnatural, or unfair, in the interpretation thus given to the Treaty by Her Majesty's Government, is equally evident from the fact that such interpretation was at once accepted by the Secretary of State, Mr. Webster, than whom no statesman at that time living, whether in Europe or America, was more fitted to comprehend the spirit or analyze the wording of any international obligation; and that Her Majesty's Government was not at that time, and is not now, animated by any such object as that of obtaining any peculiar influence or control over the River San Juan, or the canal that may be formed from its waters, is likewise demonstrated by the circumstance, worth noting, that the object which Great Britain had in view in pursuing these further negotiations with the United States was that of withdrawing her protection from the very town called Greytown, or San Juan de Nicaragua, and the adjoining territory, and of placing the same in the hands of some Central American State, on conditions in nowise beneficial to herself, or only beneficial in so far as such conditions tended to maintain a state of peace and tranquillity in that part of the world to which they related, and to preserve the Mosquitos in a territory bordering that which was to be ceded, in an inoffensive state of neutrality and security.

Indeed, when Her Majesty's Minister, in a conversation which took place about the end of July 1851 on this subject, agreed, on the part of the British Government, to assign Greytown to Nicaragua, upon her coming to a fair settlement with Costa Rica as to some of the points of contention between them, and upon her agreeing to leave the Mosquito people unmolested within certain portions of the territory which they now occupy, and over which the Spanish dominion never, otherwise than nominally, extended, Mr. Webster, whilst observing that the United States had no direct interest in any question concerning Nicaragua and Mosquito, except as respected the construction of a Canal and its free navigation, and that, consequently, he did not wish to take an active part in any negotiation extending beyond these limits, added, addressing himself to the Nicaraguan Minister, who was present, that he considered the offer made by the British Minister was one which the Nicaraguan Government might consider as a fair basis for an arrangement; and Her Majesty's Government then entertained the hope and belief that, by the friendly understanding subsisting between Great Britain and the United States, and the joint efforts of both, such a settlement would be speedily concluded between all the parties interested as would enable Her Majesty's Government to release itself from the duty of protecting or defending Greytown, in which, for the time being, a self-elected body, in a great measure composed of United States' citizens, was carrying on the Government in the name of the King of Mosquito.

The preceding observations comprise all that Her Majesty's Government has now to say with regard to that portion of Mr. Buchanan's statement to which they have been intended to reply.

But, although the connection of Great Britain with Mosquito forms one of the subjects of Mr. Buchanan's communication, another subject, not less important, is the actual condition of British Honduras, Ruatan, and the Bay Islands.

It was never in the contemplation of Her Majesty's Government, nor in that of the Government of the United States, that the Treaty of 1850 should interfere in any way with Her Majesty's Settlement at Belize or its dependencies.

It was not necessary that this should have been particularly stated, inasmuch as it is generally considered that the term "Central America"—a term of modern invention—could only appropriately apply to those States at one time united under the name of the "Central American Republics," and now existing as five separate Republics; but, in order that there should be no possible misconception at any future period relative to this point, the two negotiators, at the time of ratifying the Treaty, exchanged declarations to the effect that neither of the Governments they represented had meant in such Treaty to comprehend the settlement and dependencies in question.

Mr. Clayton's declaration to Her Majesty's Government on this subject was ample and satisfactory, as the following extract from his note of July 4, 1850, will show:

"The language of the first Article of the Convention concluded on the 19th day of April last, between the United States and Great Britain, describing the country not to be occupied, &c., by either of the parties, was, as you know, twice approved by the Government, and it was neither understood by them, nor by either of us [the negotiators], to include the British Settlement in Honduras (commonly called British Honduras, as distinct from the State of Honduras), nor the small islands in the neighbourhood of that Settlement which may be known as its dependencies.

"To this Settlement and these islands the Treaty we negotiated was not intended by either of us to apply. The title to them it is now, and has been my intention throughout the whole negotiation, to leave as the Treaty leaves it, without denying or affirming, or in any way meddling with the same, just as it stood previously.

"The Chairman of the Committee on Foreign Relations of the Senate, the Honourable W. A. King, informs me that the Senate perfectly understood that the Treaty did not include British Honduras."

Such having been the mutual understanding as to the exception of

the Settlement of Belize and its dependencies from the operation of the Treaty, the only question relative to this Settlement and its dependencies, in reference to the Treaty, that can now arise, is as to what is the Settlement of Belize and its dependencies, or, in other words, as to what is British Honduras and its dependencies.

Her Majesty's Government certainly understood that the Settlement of Belize, as here alluded to, is the Settlement of Belize as established in 1850; and it is more warranted in this conclusion from the fact that the United States had, in 1847, sent a Consul to this Settlement, which Consul had received his exequatur from the British Government; a circumstance which constitutes a recognition by the United States' Government of the Settlement of British Honduras under Her Majesty as it then existed.

Her Majesty's Government at once states this, because it perceives that Mr. Buchanan restricts the said Settlement within the boundaries to which it was confined by the Treaty of 1786; whilst Her Majesty's Government not only has to repeat that the Treaties with Old Spain cannot be held, as a matter of course, to be binding with respect to all the various detached portions of the old Spanish-American monarchy, but it has also to observe that the Treaty of 1786 was put an end to by a subsequent state of war between Great Britain and Spain; that during that war the boundaries of the British Settlement in question were enlarged; and that when peace was reestablished between Great Britain and Spain, no Treaty of a political nature, or relating to territorial limits, revived those Treaties between Great Britain and Spain which had previously existed.

Her Majesty's Government, in stating this fact, declares distinctly, at the same time, that it has no projects of political ambition or aggrandizement with respect to the Settlement referred to; and that it will be its object to come to some prompt, fair, and amicable arrangement with the States in the vicinity of British Honduras for regulating the limits which should be given to it, and which shall not henceforth be extended beyond the boundaries now assigned to them.

As to Ruatan and the adjoining islands, all that can be debateable as to them is, whether they are island dependencies of Belize or attached to some Central American State.

Now it cannot be disputed that whenever Ruatan has been permanently occupied, either in remote or recent times, by anything more than a military guard or flag-staff, the occupation has been by British subjects.

It is true that the Republic of Central America declared that it had a flag flying in that island from 1821 to 1839; but this fact merely rested on that Republic's declaration, and all that is positively known is that when the British Government were aware that a foreign flag was flying at Ruatan, a British ship-of-war was sent to haul it down, and since that time no attempt has been made to reestablish it; but, on the contrary, when on two or three occasions complaints have been brought by the citizens of Central American States against the settlers in Ruatan to the Commandant of Truxillo, the Commandant has referred them to Belize, telling them that the island was British.

It is, moreover, a fact that Ruatan has been of late years, without any instigation on the part of Her Majesty's Government, spontaneously occupied by British subjects, and that the Superintendent of Belize has been in the habit of visiting the island, appointing the magistrates in it, and generally managing its affairs. In going back to ancient times it is also well known that in 1742 the English were formally settled at Ruatan, and that in the atlas of the West Indian islands published by Jefferies, the King's geographer, in 1796, Rattan or Ruatan is coloured as a British possession; and although this island and that of Bonacca have doubtless been at various times left unoccupied, and at others claimed or held by other Powers, it is certain that in 1838, 1839, and 1840, Great Britain not only asserted her right to the same, but declared her intention to maintain that right by force.

These circumstances, without entering further into the subject, will at least prove that the pretensions of Great Britain to consider Ruatan

and Bonacca dependencies of Belize is of long standing, and existed certainly at the period of the Treaty of 1850. Indeed, Mr. Buchanan, in his statement, observes that Ruatan was occupied in 1850 by Great Britain. But if Ruatan was at that time known to be occupied by Great Britain as a Settlement of Belize, and the United States' Government notwithstanding considered it to have been a portion of Central America, and thereby comprehended in the Treaty—which Belize and its dependencies were not—the United States' Government would beyond doubt have openly stated that it did not consider Ruatan included in the term "island dependencies;" and Great Britain was therefore justified, since no such exception was made, in deeming that her claim to Ruatan, as a part of the Belize Settlement, was not about to be disputed.

Her Majesty's Government deems that it has by the foregoing observations furnished an adequate reply to the statement of Mr. Buchanan, and proved that the obligations of the Treaty have in no respect been infringed.

But having performed this duty, Her Majesty's Government desires to say that it would be far more to its satisfaction to arrange on fair terms any differences of opinion with the Government of the United States, than to prolong discussion and argument respecting such differences. It has also no difficulty in adding that although it did not, by the Treaty of 1850, abandon the right of Great Britain to protect the Mosquitos, yet it did intend to reduce and limit the exercise of that right.

The practical difference between Great Britain and the United States, with regard to the only mutually important portion of Mosquito, namely, that portion to which the construction and condition of the Canal, which formed the origin and basis of the Treaty of 1850, applies, is very small indeed. That difference does not turn upon the point whether Great Britain should retain her protection over the port and town of San Juan, and the northern bank of that river, but upon the conditions on which that protection should be withdrawn.

In short, the practical question at issue relative to Greytown, and that part of the Mosquito country bordering upon the River San Juan, is not whether Great Britain should, directly or indirectly, exercise dominion over the same, but whether Nicaragua, or some other equally independent State, should obtain possession thereof in a manner consonant with the honourable obligations of Great Britain, the peace of the Central American continent, and the safety from persecution of the Mosquito Indians; or, on the other hand, whether Nicaragua should be put in possession of that territory in a manner almost certain to produce hostilities between Nicaragua and Costa Rica, and to lead to the persecution and destruction of the Mosquito people; an alternative to which Great Britain could not consent, and which the Government of the United States could have no motive in requiring.

It is true that in that more remote portion of the Mosquito territory where the Chief or King of the Mosquitos himself resides, a British Consul or Agent also resides; and this resident may oftentimes be called upon to give his opinion or advice to the Mosquito Government, as is usual when weak Governments are in alliance with strong ones, more especially when those strong ones have agreed to protect the weak ones from external aggression, and may therefore reasonably expect to have such influence over their policy as may prevent them from giving just pretext for invasion.

It is true also that Englishmen may thus be in the councils of the King of Mosquito, acting as his Ministers; but Englishmen and Americans both hold the same position in the Sandwich Islands, the government of which is carried on by foreigners, but is nevertheless (and the race is Indian) considered and treated as independent. To alter this state of things might at the present moment be impossible, but Her Majesty's Government would be ready and willing to enter into such engagements as should prevent Great Britain from receiving any privileges or advantages from the Mosquito Government not granted to other States.

Her Majesty's Government can hardly anticipate any difficulty at this time with the United States respecting the continental establishment of Honduras, the limits of which in 1850 were so well known, and can be so

easily ascertained, and which will not be extended; but having shown that its pretensions to the Islands of Ruatan and Bonacca are of no recent date, and that they were unquestioned by the United States' Government in 1850, Her Majesty's Government cannot admit that an alteration in the internal form of Government of these islands is a violation of the Treaty, or affords a just cause of remonstrance to the United States.

There are at all times two modes of dealing with matters of business between nations; the one calculated to excite mutual irritation, the other to mitigate it; the one tending to prolong and increase differences, the other to diminish and remove them.

The latter is the mode which Her Majesty's Government earnestly desires in the present instance to adopt and to see adopted; for it can hardly be necessary to say that there is no Government with which the people and Government of Great Britain more sincerely desire to live in intimate and friendly relations than that of the United States. It is in accordance with the spirit which Her Majesty's Government thus distinctly avows, that Her Majesty's Government proposes to that of the United States:

That the two Governments of Great Britain and the United States should at once endeavour to come to some friendly understanding as to the Government which should be definitively formed at Greytown, in order to admit of the Mosquito authority being withdrawn therefrom; and as to the engagements which such Government should enter into with regard to the claims of Costa Rica, and the future non-molestation of the Mosquitos; and that the two Governments should endeavour, in the same manner, to come to some friendly understanding as to the mode by which protection may be most effectually afforded to the Mosquito Indians.

It is the desire of Her Majesty's Government not only to maintain the Convention of 1850 intact, but to consolidate and strengthen it by strengthening and consolidating the friendly relations which it was calculated to cement and perpetuate. Her Majesty's Government regrets that any misunderstanding should have arisen with respect to its terms; but it entertains the firm belief that by the explanations it has now given, and the proposals it makes, that misunderstanding will be completely removed.

(Signed) CLARENDON.

Foreign Office, May 2, 1854.

No. 177.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, May 4, 1854.

I INCLOSE, for your information, copies of memoranda* which have been interchanged between the United States' Minister in this country and myself, respecting the territories occupied by Great Britain in the Bay of Honduras, and the protectorate afforded to the Mosquito nation by the British Crown.

I am, &c.
(Signed) CLARENDON.

No. 178.

Remarks in reply to Lord Clarendon's Statement of May 2, 1854.

IT would not seem necessary to extend these remarks, by pointing out what might be deemed inaccuracies in Lord Clarendon's introductory *résumé* of the points in Mr. Buchanan's statement of 6th January, 1854, nor of the order in which these points have been presented. It is sufficient to observe, that the sixth and last point of this *résumé*, embracing the true construction of the Convention of April 19, 1850, and which was the

* Nos. 175 and 176.

first discussed in Mr. Buchanan's statement, being by far the most important, is entitled to precedence.

The American Government cordially reciprocates the desire expressed by that of Great Britain, "to live on intimate and friendly relations" with the United States. Strong bonds of affinity and interest ought to unite the two nations in perpetual peace and friendship. Mr. Buchanan, therefore, deploras the unhappy misunderstanding which exists between them in regard to the construction of a Convention which it was believed, on the part of the American Government, would terminate all their pre-existing difficulties in Central America. How unfortunate would it be, if this Convention, instead of settling, should only complicate these difficulties.

In replying to the British statement, whilst it has become his duty to maintain the proposition that Great Britain has failed to carry into effect the provisions of the Convention—a subject in its nature intrinsically delicate—he will endeavour to perform the task in a manner consistent with the exalted respect which he entertains for the Government of Great Britain.

The rights and the duties of the parties must be regulated by Article I of the Convention of 19th April, 1850; and these observations shall, therefore, be primarily directed to the ascertainment of its true meaning. The following is a copy of its text: "The Governments of the United States and Great Britain hereby declare, that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said Ship-Canal; agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; nor will either make use of any protection which either affords, or may afford, or any alliance which either has, or may have, to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any State or Government through whose territory the said Canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or the subjects of the one, any rights or advantages in regard to commerce or navigation through the said Canal, which shall not be offered on the same terms to the citizens or subjects of the other."

In the course of this statement it is proposed to maintain that this Article requires Great Britain to withdraw from the possession of Ruatan and the other Bay Islands, the Mosquito Coast, and the territory between the Sibun and the Sarstoon. The Belize Settlement will demand a separate consideration.

What, then, is the fair construction of the Article? It embraces two objects:

1. It declares that neither of the parties shall ever acquire any exclusive control over the Ship-Canal to be constructed between the Atlantic and Pacific, by the route of the River San Juan de Nicaragua, and that neither of them shall ever erect or maintain any fortifications commanding the same, or in the vicinity thereof.

In regard to this stipulation no disagreement is known to exist between the parties. But the Article proceeds further in its mutually self-denying policy, and in the second place declares that neither of the parties will "occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America."

We now reach the true point. Does this language require that Great Britain shall withdraw from her existing possessions in Central America, including "the Mosquito Coast?" The language peculiarly applicable to this coast will find a more appropriate place in a subsequent portion of these remarks.

If any individual enters into a solemn and explicit agreement that he

will not "occupy" any given tract of country then occupied by him, can any proposition be clearer than that he is bound by his agreement to withdraw from such occupancy? Were this not the case, these words would have no meaning, and the Agreement would become a mere nullity; nay, more, in its effect it would amount to a confirmation of the party in possession of that very territory which he had bound himself not to occupy, and would practically be equivalent to an agreement that he should remain in possession—a contradiction in terms. It is difficult to comment on language which appears so plain, or to offer arguments to prove that the meaning of words is not directly opposite to their well-known signification.

And yet the British Government consider that the Convention interferes with none of their existing possessions in Central America; that it is entirely prospective in its nature, and merely prohibits them from making new acquisitions. If this be the case, then it amounts to a recognition of their right, on the part of the American Government, to all the possessions which they already hold; whilst the United States have bound themselves by the very same instrument, never, under any circumstances, to acquire the possession of a foot of territory in Central America. The mutuality of the Convention would thus be entirely destroyed; and whilst Great Britain may continue to hold nearly the whole eastern coast of Central America, the United States have abandoned the right, for all future time, to acquire any territory or to receive into the American Union, any of the States in that portion of their own continent. This self-imposed prohibition was the great objection to the Treaty in the United States at the time of its conclusion, and was powerfully urged by some of the best men in the country. Had it then been imagined that whilst it prohibited the United States from acquiring territory, under any possible circumstances, in a portion of America through which their thoroughfares to California and Oregon must pass, the Convention at the same time permitted Great Britain to remain in the occupancy of all her existing possessions in that region, Mr. Buchanan expresses the confident conviction that there would not have been a single vote in the American Senate in favour of its ratification. In every discussion it was taken for granted that the Convention required Great Britain to withdraw from these possessions, and thus place the parties upon an exact equality in Central America. Upon this construction of the Convention, there was quite as great an unanimity of opinion, as existed in the House of Lords that the Convention with Spain of 1786 required Great Britain to withdraw from the Mosquito Protectorate.

There is the strongest reason to believe that the same construction was placed upon the Convention by the Government of Great Britain at the time of its conclusion. If this were not the case, why their strenuous efforts, before the ratifications were exchanged, to have the British Settlement of Belize specially excepted from its operation? Upon the opposite construction of the Convention, it ought to have been their desire to place that Settlement under its protection, and thus secure Great Britain in its occupancy.

The conduct of the Government of Great Britain on this occasion can be satisfactorily accounted for only upon the principle that, perceiving the language of the Convention to be sufficiently explicit and comprehensive to embrace Belize, they must have made these efforts to prevent the necessity of their withdrawal from that Settlement. And as no attempt was made to except any other of their possessions from its operation, the rule that "*expressio unius est exclusio alterius*," applies to the case and amounts to an admission that they were bound to withdraw from all their other Central American possessions.

If this be the true construction of the Convention, as well as its manifest spirit, then let us apply it to the objects it was intended to embrace. And first of Ruatan; thus for the present disembarassing ourselves from the Mosquito Protectorate.

It is not denied by the British statement that Ruatan "is clearly a Central American Island," and "but thirty miles distant from the [Honduras] port of Truxillo." Indeed, it was impossible that this could be denied. Why, then, is this island not embraced by the Convention?

The only reason given for it is the allegation that Ruatan and the adjacent islands were dependencies of Belize, and were protected from the operation of the Convention by Mr. Clayton's declaration of the 4th July, 1850. Now, admitting, for the sake of argument, that this declaration is binding on the United States, to what does it amount? Its language is very explicit. The Convention was not understood by either of the negotiators, says Mr. Clayton, "to include the British Settlement in Honduras (commonly called British Honduras, as distinct from the State of Honduras), nor to the small islands in the neighbourhood of that Settlement which may be known as its dependencies."

"The small islands in the neighbourhood of that Settlement,"—what are they? These are, undoubtedly, Cayo Casina, and "the cluster of small islands" on the coast at the distance of "three leagues from the River Sibun," particularly specified in the British Convention with Spain of 1786. Indeed, the same construction would seem clearly to have been placed upon this Convention by the British Minister at Washington, in his letter to Mr. Clayton of the 7th of January, 1854, a copy of which is, doubtless, in the possession of Lord Clarendon. It would be a strained construction of Mr. Clayton's carefully-guarded language, to make his "small islands in the neighbourhood" embrace the comparatively large and very important Island of Ruatan, with its excellent harbours, not in the neighbourhood, but hundreds of miles distant; an island represented "as the key of the Bay of Honduras, and the focus of the trade of the neighbouring countries," which is considerably larger, according to Captain Henderson, than many of the West India islands; in cultivation, and in soil, and natural advantages, not inferior to any of them. This would be to make the dependency far more valuable than the principal, and to engraft an absolute sovereignty upon a mere usufruct. And here it may be proper to observe that the quotation "island dependencies," in the British statement, if intended to be made from any part of Mr. Clayton's declaration, is an incorrect quotation. His language is not "island dependencies," but "small islands in the neighbourhood" of Belize. This island is, then, clearly a Central American island, in the neighbourhood not of Belize, but of the State of Honduras; and in the language of Mr. Clayton's statement, so much relied upon, is one of "the proper dependencies" of that State, and is therefore embraced by the Treaty. Indeed, it would be little short of an absurdity for Mr. Clayton to have excepted, as it is contended he ought to have done, from his declaration, including only "the small islands in the neighbourhood" of Belize, the distant, large, and valuable Island of Ruatan. And yet it is alleged, from his omission to do this, that Great Britain was justified "in deeming that her claim to Ruatan, as a part of the Belize Settlement, was not about to be disputed!"

The British statement seems to attach considerable importance to the fact, but why, it is difficult to conceive, that "Mr. Buchanan, in his statement, observes that Ruatan was occupied in 1850 by Great Britain." It was for the very reason that not only Ruatan, but nearly the whole eastern coast of Central America, were occupied by Great Britain, that the Government of the United States were so anxious to conclude a Convention requiring her to withdraw from this occupation. It was for this reason that the United States, as an ample consideration for this withdrawal, bound themselves never to occupy any portion of Central America. But for this agreement to withdraw, the United States, in self-defence, would have been compelled to accept cessions of territory in Central America; because without such territory Great Britain would have been left in a position absolutely to command not only the projected canal by the Lake Nicaragua, but all the other canals and railroads which may be constructed through any part of the Isthmus. The Convention was therefore not confined to this single route, but extended its protection "to any other practicable communications, whether by canal or railway, across the Isthmus which connects North and South America." Both parties were to stand aloof, and neither of them was to occupy territory in the vicinity of any of these routes, much less an island which, from its position and excellent harbours, would enable a strong naval

Power in possession of it to close any canals or railroads which might be constructed across the Isthmus.

Now, whether Great Britain was in the occupation of Ruatan at the date of the Convention, by a good or by a bad title, cannot make the least difference in regard to the true construction of that instrument. The case might have been different had the question arisen between her and the State of Honduras. The question between Great Britain and the United States, however, is not as to the validity of her title, but, no matter what it may have been, whether she has not agreed to abandon her occupation under this title; not what was the state of things before, but what she agreed it should become after the conclusion of the Convention. Still, out of deference to the British statement, which contends that the British title was good to this island at the conclusion of the Convention, it is but proper to examine the reasons on which this claim was founded.

Ancient possession is invoked to sustain this claim, and it is said that "it is well known that in 1742 the English were formally settled at Ruatan;" but, in reply, it may be stated that this possession was speedily abandoned. We are informed by "*Ree's Cyclopædia*," published in London in 1819, that the "English, in the year 1742, formed a settlement here [in Ruatan] for the purpose of carrying on the logwood trade, *but it was soon abandoned.*"

In answer to the map published by Jeffries in 1796, and cited by Lord Clarendon, it may be observed that there is another copy of the very same map in the British Museum, published in the same year, in which Ruatan is not coloured as a British possession. At the date of this map, more than half a century ago, the geography of that portion of America was comparatively but little known; for this reason, the map published in 1851, at London, by James Wyld, Geographer to the Queen, "of the West India and Bahama Islands, with the adjacent coasts of Yucatan, Honduras, Caraccas, &c.," also to be found in the British Museum, is of much higher authority, and upon its face Ruatan and the other Bay Islands are assigned to Honduras. The same view is presented by the same author, on a former "Map of the West India and Bahama Islands," &c., published in 1849, and now in possession of the Legation.

It may also be confidently asserted, as a well-known historical fact, that if the English were in the occupation of Ruatan at the date of the Treaty with Spain of 1786, they abandoned it immediately thereafter in obedience to that Treaty. Brooke's "*General Gazetteer*," published in London in 1853, distinctly states this fact. It says, "This beautiful island, partially covered with wood, was once in possession of the English, who fortified its excellent harbour, *but abandoned it when they withdrew from the Mosquito shore.*" And Johnston, in his "*Dictionary of Geography*," published in London in 1851 and 1852, described it as an island off the north coast of Central America, "*formerly belonging to the English.*" Near its southern extremity is a good harbour, with batteries erected *by the English during their former occupation.*

At what period, then, after the Convention of 1786, did this island cease to be Spanish and become English? It is admitted by Captain Henderson, an officer of the British army, in his "*Account of the British Settlement of Honduras*," an authority which will not be disputed, that it was still a Spanish Island in 1804. The next we hear of it is, that it was in the possession of Honduras, as the successor of Spain, in 1830, whilst the Confederation of the Central American States still continued to exist, and was in that year (not in 1835, as in the former statement) captured from that State by the British forces, but was soon afterwards restored. The following extract from Crowe's "*Gospel in Central America*," an able and interesting work, prepared after personal observation, and published in London in 1850, gives a correct account of the transaction. The author says: "1830. The only notable breach upon peace and good order was the seizure of the Island of Ruatan, in the Bay of Honduras, by the authorities of the neighbouring British Settlement: but upon complaint by the Federal Government, the act of the Superintendent of Belize was theoretically disallowed by his Government, though it has since been practically repeated in precisely the same quarter and under the sanction of the same Power."

There is other evidence of a similar character in the possession of Mr. Buchanan, but as it proceeds from American sources, it is deemed best to let the facts, especially as they have not been contradicted by the British statement, rest upon the authority of a British author of highly respectable character. The author then proceeds to speak in indignant terms of its second capture and annexation in 1841, denouncing it as an "inglorious revolution."

Lord Clarendon, in his statement, admits that this island and that of Bonacca "have doubtless been at various times left unoccupied, and at others claimed or held by other Powers;" but says, "it is certain that in 1838, 1839, and 1840 [it ought to have been in 1841], Great Britain not only asserted her right to the same, but declared her intention to maintain that right by force." That is, in substance, that Great Britain captured this island from Honduras in 1841, and expelled the troops of that State from it, and now maintains that this capture gives her title.

It is impossible that Great Britain can claim this island by the right of conquest, because the capture was made in the time of profound peace. She cannot convert the very act of which Honduras complains as a wrong and an outrage into the foundation of British title. Of the manner in which the seizure of Ruatan was made by the Superintendent of Belize in 1841, Mr. Crowe speaks in the following language:

"As he expected, Colonel Macdonald found only a few inhabitants under care of a serjeant and a small detachment of soldiers belonging to the State of Honduras. These being incapable of resistance, he proceeded to haul down the flag of the Republic, and to hoist that of Great Britain in its stead. No sooner, however, had he re-embarked, than he had the mortification of seeing the union jack replaced by the blue and white stripes of Honduras. He subsequently returned and completed the inglorious revolution by taking such precautions and making such threats as he thought necessary."

The British statement contests the principle that the Central American Provinces having by a successful revolution become independent States, succeeded within their respective limits to all the territorial rights of Spain. As the statement presents no reason for denying this principle, it is not deemed necessary to assign any reason in addition to those of the former American statements in its support. The principle cannot, it is conceived, be successfully controverted. Were any third Power permitted to interpose and seize that portion of territory which the emancipated colony could not defend, all Powers might exercise the same right, and thus the utmost confusion and injustice would follow. If Great Britain could seize Ruatan, France might have taken possession of another portion of Honduras, and the United States a part of San Salvador; and thus a successful revolution, instead of proving a benefit to those who had asserted and maintained their independence, would give rise to a general scramble among the nations for a proportion of the spoil.

But the British statement not only denies that her Treaty with Mexico of the 26th December, 1826, is a recognition of the principle asserted, but maintains that it proves the contrary.

At the date of this Treaty, Great Britain was in possession, for special purposes, of the usufruct of Belize, which she had acquired from Spain under the Treaty of 1786. Upon what other principle could she have solicited and obtained from Mexico an agreement that British subjects should not be disturbed in the enjoyment of this limited usufruct, unless upon the principle that Mexico had inherited the sovereign rights of Old Spain over the Belize Settlement? Had she then intended to claim this Settlement in absolute sovereignty, she never would have sought and obtained from Mexico a continuance of her special license.

The idea of an absolute owner asking a special permission to use his own property in a particular manner from a person in whom he recognized no title, would be, to say the least, a novelty, if not an absurdity. Greatly to her credit and her good faith, however, Great Britain agreed to hold under Mexico in the very same manner she had held under Old Spain, and thus clearly recognized the rights of Mexico.

How does the British statement answer this argument? It says that

the Treaty "simply stipulates that British subjects should not be worse off under Mexico independent than under Mexico when a Spanish province," and "it was natural in recognizing the independence of Mexico, that Great Britain should make such a stipulation." It was certainly natural that she should do this; but only on the principle that Mexico might otherwise have asserted her rights, as the successor of Old Spain, and at any moment have terminated the license.

The British statement observes, that since the capture of the island in 1841, no attempt has been made by Honduras to recapture it; and that the Commandant of Truxillo, when, on two or three occasions, complaints had been made to him for redress against the settlers of Ruatan, has referred them to Belize, telling them that the island was British. But what inference can be drawn from these facts? Honduras, from her feebleness, has been compelled to submit, and to resort to the only remedy which the weak have against the powerful. Complaints and protestations against the act, which she has never ceased to make, have been her only resource. How ridiculous it would have been for her to have attempted to recapture this island from Great Britain! And the Commandant of Truxillo would, as a matter of course, refer complainants against the settlers in Ruatan to Great Britain for redress, the Power in possession, and the only Power in existence which could apply the remedy.

If, therefore, the question depending had been between Great Britain and Honduras, and the point to be decided by an impartial umpire were, which of the two Powers held the best title to the island, there could be but little doubt, it is conceived, what would be his decision. But as before remarked, the question is not between these parties, but between Great Britain and the United States. Its decision does not depend upon the validity or invalidity of the British title, but whether Great Britain has bound herself by Treaty with the United States, not "to occupy, or fortify, or colonize, or assume or exercise any dominion over" Ruatan. Under these circumstances, it was not the duty of the United States, as is alleged, at the conclusion of the Convention in 1850, to have formally contested the title of Great Britain to this island. Such a course could only have produced useless irritation. It was sufficient for them to know that Great Britain being in the occupation of it, no matter by what title, had agreed to withdraw from this occupation.

But "Her Majesty's Government cannot admit that an alteration in the internal form of Government of these islands is a violation of the Treaty, or affords a just cause of remonstrance to the United States." What are the facts of the case? When the Treaty was concluded, Great Britain was simply in the occupation of Ruatan, under the capture made by Colonel Macdonald. She had established no regular form of Government over its few inhabitants, who, to say the least, were of a very heterogeneous character. She had then taken but the first step, and this in the face of the remonstrances of Honduras, towards the appropriation of the island. No trouble could have been anticipated by the United States in regard to this island; no doubt could have been entertained but that Great Britain would promptly withdraw from it after the conclusion of the Treaty. Her relation towards Ruatan, at this time, was merely that of a simple occupant. From this occupancy it was easy to retire, and the island would then have naturally reverted to Honduras. Instead, however, of taking one step backward, the Government of Great Britain has since taken a stride forward, and has proceeded to establish a regular Colonial Government over it. But this is not all. They have not confined themselves to Ruatan alone, but have embraced within their colony five other Central American islands, off the coast of the State of Honduras. One of these, Bonacca, says Bonnycastle, is an island about sixty miles in circumference, and is supposed to be the first island which Columbus discovered on his fourth voyage. It was not known in the United States that the British Government had ever made claim to any of these five Central American islands previous to the proclamation announcing their colonization. Indeed, the British statement nowhere asserts that any of them had even been occupied, at any period, by Great Britain, before their incorporation with Ruatan, and the establishment, in 1851, of the colony of the "Bay Islands."

In this manner has the feeble State of Honduras been deprived of every valuable island along her coast, and this is now completely commanded by the impending power of Great Britain.

The Government of the United States view the establishment of the Colony of "the Bay Islands" in a still more unfavourable light than they do the omission, on the part of the British Government, to carry the provisions of the Treaty into effect. They feel this to be the commission of a positive act in "palpable violation both of the letter and the spirit of the Clayton and Bulwer Convention."

2. *The Mosquito Protectorate.*

It does not seem necessary to add arguments to those of the former American statement for the purpose of proving that the Mosquito Protectorate has been abolished by the Convention. This point has nowhere been directly met throughout the British statement by arguments drawn from the body of the Treaty itself. These remarks shall, therefore, be confined to the topics presented in the British statement.

In this discussion, as in the case of the Bay Islands, it ought ever to be borne in mind that it is the true construction of the Convention which is mainly to be ascertained and enforced, and not the historical circumstances and events which either preceded or followed its conclusion.

The admission is noticed with satisfaction that the United States had not, under the Convention, acknowledged the existence of the British Protectorate in Mosquito. This relieves the argument from much embarrassment, and the American negotiator from the imputation of having done an act which would have been condemned by his country.

It is, also, repeatedly admitted that, although the British Government (to employ its own language) "did not, by the Treaty of 1850, abandon the right of Great Britain to protect the Mosquitos, yet it did intend to reduce and limit that right." Had the statement proceeded one step further, and specified in what manner and to what extent the British Government intended to reduce and limit this right, the controversy on this point might then, for all practical purposes, have been settled. Why? Because Lord Clarendon must have resorted to the Convention itself for a specification of the limitations imposed on the Protectorate, and this would have informed him that it shall never be used for the purpose of "occupying" "the Mosquito coast," "or of assuming or exercising dominion over the same." Let Great Britain no longer employ it for these purposes; let her cease to occupy this coast and exercise dominion over it; and, although this is not all the Convention requires, for every essential object this would prove sufficient.

The British statement, strangely enough, first proceeds to discuss, at considerable length, what it terms "the spirit" of the Treaty, which it says "must always be inferred from the circumstances under which it takes place;" and afterwards, in a very few lines, disposes of the great question of the true construction of its language. This entirely reverses the natural order of things. Vattel informs us, in his chapter on "the Interpretation of Treaties," that "the first general maxim of interpretation is, that it is not allowable to interpret what has no need of interpretation. When a deed is worded in clear and precise terms; when its meaning is evident and leads to no absurd conclusion; there can be no reason for refusing to admit the meaning which such deed naturally presents. To go elsewhere in search of conjectures in order to restrict or extend it, is but an attempt to elude it. If this dangerous method be once admitted, there will be no deed which it will not render useless."

It was therefore incumbent upon the British statement first to prove that the language of the Convention is obscure—a most difficult task—before it could properly resort to extraneous circumstances to explain its meaning. Nevertheless, following the order of the statement, a reply shall first be given to the circumstances adduced.

But as, preliminary to these, the statement branches off into a declaration "that Mr. Buchanan confounds the conditions of a sovereignty and

a protectorate, and, under this error, treats the agreement 'not to colonise, nor occupy, nor fortify, nor assume nor exercise dominion over,' as including an agreement not to protect." Now admitting, for the sake of argument, that these words do not include "an agreement not to protect," they do at least limit this protection so that it cannot be exercised for the purpose of occupying, or exercising dominion over the Mosquito Coast. Let this be granted, and the United States need ask but little more.

No foundation, however, is to be found in Mr. Buchanan's statement for the criticism that he had confounded two things so distinct in their nature as "a sovereignty and a protectorate." Indeed, he does not even use the word "sovereignty" in connection with this topic throughout his whole statement. On the contrary, he has carefully confined himself to the language of the Convention itself, and employed only the words "occupy" or "assume or exercise dominion."

The American Government have never treated the protectorate claimed by Great Britain as one which could be recognised by public law. They well knew, from the savage and degraded character of the Mosquito Indians, that no Treaty of Protection could exist between Her Britannic Majesty and the King of the Mosquito Indians, such as is recognised among civilized nations. Under such a Treaty the protected Power reserves to itself the right of administering its own Government—a right which it was impossible for the Mosquitos to exercise. This nominal protectorate must therefore, from the nature of things, be an absolute submission of these Indians to the British Government, which, in fact, it has ever been.

For these reasons the American statement has everywhere treated Great Britain as in possession of the Mosquito Coast, and in the exercise of dominion over it, in the same manner as though she were its undisputed owner, and has contended that she is bound by the Treaty to withdraw from this possession and the exercise of this dominion. This is the substance—all the rest is mere form. In this point of view it is wholly immaterial whether the relations of the Mosquito Indians towards Great Britain be called a protectorate, a submission, or by any other name. The great object of the Convention, as understood by the Government of the United States, is, that she should cease "to occupy" the Mosquito Coast, no matter by what name or under what claim it is retained.

The leading, indeed it may almost be said the only, circumstance adduced to illustrate "the spirit" of the Convention, and bear upon its construction, is a correspondence which took place at London in November 1849, between Mr. Laurence and Lord Palmerston. It is thus sought to convert this preliminary correspondence, which occurred months before the Convention was concluded, into the means of changing and limiting the meaning of the language afterwards employed by the actual negotiators. By such means all agreements between private parties and all Treaties between sovereign States, might be annulled. When the final agreement is once concluded, the preliminaries become useless. Like the scaffolding of a building, they are cast aside after the edifice has been erected.

But even if such a process were legitimate, there is nothing in this correspondence which, so far from weakening, does not fortify the construction placed upon the Convention by the Government of the United States. Mr. Laurence first asks Lord Palmerston, as the primary object, "whether the British Government intends to occupy or colonize Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America;" and then inquires "whether the British Government will unite with the United States in guaranteeing the neutrality of a ship-canal, railway, or other communication to be open to the world, and common to all nations." In reply, Lord Palmerston says "that Her Majesty's Government do not intend to occupy or colonize Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America;" and he also gave an equally satisfactory answer to the second inquiry of Mr. Laurence.

Now what inference does the British statement draw from this language? It is, that as the correspondence which, it is alleged, was before the negotiators, does not refer to the Mosquito Protectorate by

name, therefore they must have intended that this should remain untouched by the Treaty. But no inference can prevail against a positive fact. If the correspondence be silent in regard to the Protectorate, not so the Convention. This expressly embraces it, and declares, "nor will either [of the Parties] make use of any protection which either affords or may afford, or any alliance which either has or may have, to or with any State or people for the purpose of [erecting or maintaining any such fortifications, or of] occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, or of assuming or exercising dominion over the same."

But even if the Convention had not contained this express stipulation in regard to the Mosquito Protectorate, and had simply provided for carrying into effect the intention expressed by Mr. Laurence and Lord Palmerston, that neither of the Parties should "occupy or colonize" "the Mosquito Coast," this would, it is conceived, have been abundantly sufficient to bring Great Britain to withdraw from its occupation.

In point of fact, it resulted from abundant caution alone, that the clause just quoted from the Convention was superadded; prohibiting Great Britain, whether under the name of a "protection" or "alliance," from "occupying" "the Mosquito Coast," "or of assuming or exercising dominion over the same."

In reference to the "literal meaning of the Convention," which is certainly the main point, the British statement occupies but a few lines, and avoids any direct discussion of the language which it employs. Indeed, the construction for which the Government of the United States contends is substantially admitted. The statement, after quoting the provisions of the Article, and contending that it "clearly acknowledges the possibility of Great Britain or the United States affording protection to Mosquito, or any Central American State," concedes that whilst it was not the intention of the Parties to prohibit or abolish, it was their intention "to limit and restrict such Protectorate." Let there be no dispute about words upon so grave a question. How did the Convention limit and restrict this Protectorate? It does this, as before observed, by prohibiting both parties from using "any protection which either affords," for the purpose of occupying or exercising dominion over the Mosquito Coast.

Throughout that portion of the argument arising out of the correspondence between Mr. Laurence and Lord Palmerston, and indeed in other parts of it, the British statement has treated the joint protection of the two Governments to the Nicaragua Canal, as though this were the principal and almost the only feature of the Convention. Such expressions as these are employed:—"The mere Protectorate of Great Britain, stripped of those attributes which affected the construction and the freedom of the proposed Canal, was of small consequence to the United States."

It is again treated as "a matter of indifference, so far as the Canal is concerned, as to whether the port and town of San Juan are under the modified Protectorate of Great Britain or under the Government of Nicaragua."

And again—"The practical difference between Great Britain and the United States, with regard to the only mutually important portion of Mosquito, namely, that portion to which the construction and condition of the Canal which formed the origin and basis of the Treaty of 1850 applies, is very small indeed," &c.

These are but very partial and limited expositions of the motives which gave birth to the Convention. It consecrated a policy far more extended and liberal. The Convention was not confined to a single route, but embraced all the routes, whether for railroads or canals, throughout Central America. To employ its own language, it agreed to extend the protection of the two Governments "by Treaty stipulations to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by

the way of Tehuantepec or Panamá." Over all such routes Great Britain and the United States have bound themselves to cast the ægis of their protection, not for their own exclusive benefit, but for that of all the commercial nations of the earth. It was to avoid all jealousies between themselves, as well as those which might arise against either or both on the part of other nations, that they agreed not merely that neither of them would erect fortifications on the single route of the San Juan or in its neighbourhood, but also that neither would directly, or by virtue of any protectorate or alliance, "occupy, or fortify, or colonise, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America." Without this latter provision, the former would have been vain. The prohibition of occupation was therefore co-extensive with the whole territory over which such canals or railroads might pass.

Viewing the Treaty in the light of its own extended and liberal provisions, it was a matter of some surprise that the British statement should have confined itself merely to a proposition for the two Governments to enter into some arrangement whereby Great Britain may withdraw her Protectorate from the port and harbour of Greytown and the northern bank of the San Juan, thus leaving the residue of the Mosquito Coast in its present condition.

The Government of the United States can become a party to no such arrangement. It stands upon the Treaty which it has already concluded, firmly believing that under this Great Britain should more than four years ago have ceased to occupy or exercise dominion over the whole and every part of the Mosquito Coast. It cannot, therefore, now enter into any new stipulation confined to the port of Greytown and the northern bank of San Juan. Such an agreement could only lead to fresh complications, and, besides, would be a tacit admission, which the United States cannot make, that the Convention of 1850 did not embrace the entire Mosquito Coast, as well as every other portion of Central America. All that the Government of the United States deem it proper to do, under existing circumstances, is to persist in their efforts to induce Great Britain to withdraw from the entire coast. This object once accomplished, the Treaty will then have its full and beneficent effect. The two Powers can then proceed in harmony to procure from the proper Central American States the establishment of two free ports, one at each end of the Canal, and successfully to interpose their good offices to settle all existing disputes concerning boundaries between the States. It is manifest, however, that nothing of this kind can be accomplished, there can be no settlement of Central American affairs, whilst Great Britain shall persist in expressing a determination to remain in possession, under the name of a Protectorate, of the whole coast of Nicaragua on the Carribean Sea.

The Earl of Clarendon has been already informed that the Government of the United States, from motives of humanity, are willing to unite with Great Britain in inducing the State of Nicaragua to assign a suitable portion of her territory for the occupancy of the miserable remnant of the Mosquito tribe. This, however, upon the principle, always recognised by Great Britain and the United States in the treatment of their own Indians, that the ultimate dominion and absolute sovereignty belong to Nicaragua; the Mosquitos having a right of mere occupancy to be extinguished only by the State of Nicaragua.

How unfortunate is the condition of Nicaragua! Her title to all the territory embraced within the limits of the ancient Province of Nicaragua is perfect. This she has acquired not only by a successful revolution, but she holds it under a solemn Treaty with Spain. This Treaty, concluded at Madrid on the 25th July, 1850, recognises her sovereignty and independence, as well as her right "over the American territory situated between the Atlantic and Pacific Sea," and "from sea to sea," "with its adjacent islands, known before under the denomination of the Province of Nicaragua, now Republic of the same name." And yet her eastern coast is covered, in its whole extent, by the Mosquito Protectorate, and she is deprived of every outlet to the Carribean Sea. Her port of San Juan has been seized by British troops, and that of Blewfields is the residence of the King of the Mosquitos and the seat of the British dominion.

An effort has been made to assimilate the case of the British Protectorate over the Mosquitos to that of Englishmen and Americans acting as Ministers to the King of Sandwich Islands. But there is no parallel between the cases. The inhabitants of the Sandwich Islands are not degraded savages, but a Christian people, and the Government of their King has been recognized by the principal Powers of the earth. He possesses the right to select foreigners for his Ministers, as other Sovereigns have frequently done; but these are totally independent of their own Governments.

It is alleged that a British Consul or Agent resides in Mosquito who "may oftentimes be called upon to give his opinion or advice to the Mosquito Government." But it is notorious, and from the degraded character of the Indians it cannot be otherwise, that the Mosquito Government is exclusively the British Government exercised through the agency of this Consul. It is through him that the British Government, in the name of this mere shadow of a King, captured the sea-ports of his neighbours, by the employment of British forces alone, and exercises dominion over the entire so-called Mosquito Coast. We have the nothingness of the Mosquito Government and the King graphically delineated by two eminent British statesmen of the present Cabinet. Truly this Government is but "a fiction:" whilst that of Great Britain is the substantial reality.

The British statement, after defining the general distinction between "sovereignty" and "defence" or "protection," presents the consequences which might arise if an agreement "not to occupy or exercise dominion," should prohibit either party from the performance of certain enumerated acts either for or against the Central American States.

As these remarks are merely hypothetical, and do not seem to have any direct bearing upon the great question pending between the parties, it is deemed unnecessary to prolong this statement by a reply to them *seriatim*. They may be well or ill-founded; but it is inconceivable in what manner they bear upon the simple question under the Treaty, which is, shall Great Britain continue to occupy or exercise dominion over the Mosquito Coast? not what acts she may perform without a violation of the Convention, after she shall have withdrawn from this occupation, and the exercise of this dominion.

Opinions are referred to said to have been expressed by Mr. Webster concerning the Convention; but this is to be expounded according to its own text, and not by the mere incidental dicta of any man, no matter how eminent.

And here all has been said which either directly or remotely touches the merits of the Mosquito question; but as several other topics have been introduced, it would be improper to pass them over in silence.

The statement declares in reference to the Mosquito Protectorate, that Great Britain "will not enter into any explanation or defence of her conduct with respect to acts committed nearly forty years ago."

Be it so. Such an explanation is not solicited by the United States. Still it is but just to observe that the British Government first set the example of discussing their ancient right to the Mosquito Protectorate; and this is the only reason given in the former American statement for presenting "the views of the Government of the United States on the subject."

It is highly satisfactory, however, to observe that the British statement, instead of relying upon acts of the English on the Mosquito Coast for centuries, limits these within a period of less than forty years anterior to the present date. It is possible that the former American statement may have done some good in effecting this change, by causing Lord Clarendon to re-examine the Treaties of 1783 and 1786, and to refer to the history of the time, in which additional proof has been found, not now necessary to be presented, in confirmation of the construction placed upon these Treaties by the American Government. It would still have been interesting as a historical fact to learn at what time "nearly forty years ago," under what circumstances, and upon what terms, Great Britain again entered upon Mosquito, after having acknowledged the sovereignty of Spain over it in 1783 and 1786, and surrendered it to that Power.

The British statement proceeds to allege, that since the Peace of 1815 Old Spain had never raised any question with the British Government respecting the Mosquito Protectorate. This is doubtless the case, because Old Spain, from the intimate relations of friendship which had existed between the two Governments since their Treaty of Alliance in 1809, could not have suspected that Great Britain was renewing her connection with the Mosquitos; and soon after "the acts committed by her nearly forty years ago," the Spanish-American revolutionary war commenced, which would naturally prevent the Spanish Government from bestowing its attention on a matter so comparatively unimportant.

The statement then denies that by the British Treaty with Mexico of 1826, Great Britain had recognized the right of the Central American States, having achieved their independence, to the territories respectively included within their boundaries, as these had formerly existed under Old Spain. As this point has already been discussed in a former portion of the present statement, it is not now necessary to add anything on this subject to what has already been said.

But again, argues the British statement, even supposing that these States did inherit the rights of Old Spain, they made no remonstrance "for many years after the Protectorate of Great Britain over Mosquito had been a fact well known to them." Surely the British Government does not mean to contend that the omission of these feeble States, agitated in the first place by a revolutionary war, and afterwards by domestic dissensions, to make such remonstrances, would confer upon Great Britain the right to deprive them of their territory. Besides, if it were necessary to go into the question, it might be proved that not many but only a few years had elapsed before these States did remonstrate against the encroachments of Great Britain.

The statement next asserts that although the Government of the United States knew of the existence of the British Protectorate in 1842, yet they did not complain of it until the end of 1849. And from this what is to be inferred? The United States had no right, under any Treaty with Great Britain, to interfere in this question until April 1850. But even if they had been directly interested in the territory as Nicaragua was, is there any statute of limitations among nations, which, after six years of unlawful possession, deprives the true owner of his territorial rights? Had the United States interfered in this question before the conclusion of the Convention of 1850, this could only have been done under the Monroe doctrine, and then they would have been informed, as they have already been in the British statement, that this doctrine "can only be viewed as the dictum of the distinguished personage who delivered it; but Her Majesty's Government cannot admit that doctrine as an international axiom which ought to regulate the conduct of European States."

But it must not be inferred from what has been said that without this Convention the Government of the United States would not have eventually interfered, in obedience to the Monroe doctrine, to prevent, if possible, any portion of Central America from being permanently occupied or colonized by Great Britain. Neither is Lord Clarendon correct in supposing that this doctrine is the mere "dictum" of its distinguished author. True, it has never been formally sanctioned by Congress; but when first announced, more than thirty years ago, it was hailed with enthusiastic approbation by the American people; and since that period the different Presidents of the United States have repeated it in their Messages to Congress, and always with unmistakeable indications of public approbation. If the occasion required, Mr. Buchanan would cheerfully undertake the task of justifying the wisdom and the sound policy of the Monroe doctrine, in reference to the nations of Europe, as well as to those on the American continent.

The British statement proceeds to enumerate several instances, commencing in November 1847, extracted from the report of Mr. Clayton to the President in July 1850, in which no answer was returned by the Government of the United States to appeals made by or on behalf of the State of Nicaragua for our interference to arrest the progress of British encroachments in Central America. Surely the war then pending between the United States and Mexico was sufficient to account for this temporary omission, without attributing it to any indifference to the proceedings of

Great Britain against Nicaragua. But even before this war was finally terminated by a Treaty of Peace, and after the capture of San Juan by the British forces, President Polk, in April 1848, gave a public pledge to the world, in strong terms, of his adherence to the Monroe doctrine, as he had already done in two previous Messages. Besides, in December 1847, he asked an appropriation from Congress to enable him to send a Minister to Guatemala; and this Minister was accordingly dispatched with instructions, which have been published, having distinctly in view the adoption of measures necessary to give effect to this doctrine in Central America.

The British statement, whilst admitting that, under the former principles and practice of European nations in regard to their treatment of the Indian races, the Mosquitos would have no right to rank as an independent State, yet indicates that Great Britain has changed her conduct in this respect.

As examples of great changes in other respects which have occurred in modern times, and as an excuse or justification for her own change, the British statement cites the suppression of the African Slave Trade, and the establishment of the Republic of Liberia. Neither of these would seem to be very wonderful. They both occurred in the natural progress of events from the advance of civilization, and the efforts of wise and benevolent men. But the British Government will have performed a miracle if they can convert the debased and degraded race of Mosquito Indians, such as they have been described without contradiction in the American statement, into citizens or subjects of a really independent and sovereign nation.

The British statement also declines to furnish the "grounds on which Her Majesty's Government made the capture of San Juan de Nicaragua;" and it is therefore scarcely necessary to pursue this branch of the subject. If it were, it would be easy to add proofs to those contained in the former American statement, that this was never a Mosquito port in any sense; but always, together with the River San Juan, rightfully belonged to Spain, and afterwards to Nicaragua. Reference might be made to the report of Sir William Wise, the commander of the British ship of war "Sophie," who visited the coast in 1820; and also to that of Mr. Orlando Roberts, who was carried as a prisoner up the San Juan in 1821. The latter describes the fort to which Captain Bonnycastle had referred, as then still mounting twelve pieces of large cannon, and containing accommodation for 100 men.

The two chapters in Crowe's Central America, entitled "British Encroachments," might also be cited. Of these the author presents a striking history, from the time of the numerous and formidable but unsuccessful expedition of Great Britain against Spain in 1780, for the purpose of wresting from that Power the port and river of San Juan, until they were finally captured from Nicaragua in 1848, and then first became a part of the Mosquito Protectorate.

3. *The Territory between the Sibun and the Sarstoon.*

The next portion of Central America which demands attention, is the territory between the Rivers Sibun and Sarstoon. Over this territory the British settlers from Belize have been encroaching for several years; but this, it was believed, without the authority or sanction of the British Government. It now appears that Great Britain claims the territory, and declines to withdraw from its occupation in obedience to the Convention.

In regard to it, the question need not be discussed whether the Convention embraces the entire isthmus geographically known as Central America, or is confined to the five States which formerly composed the Republic of that name. In either sense the country between the Sibun and the Sarstoon is included within Central America.

This territory is a part of the Province of Vera Paz, all of which constituted an integral portion of the State of Guatemala. At the date of the Treaty of 1786, and until the Spanish dominion terminated, the territory south of the Sibun was included within the ancient kingdom of Guatemala, of which, with the exception of Chiapas, the Confederated Republic

was composed. This as a geographical fact, it is presumed, will not be denied.

The British statement contends that Mr. Clayton's declaration of the 4th July, 1850, not only embraces the Settlement of Belize Proper under the Treaty with Spain, but covers the territory south of it between the Sibun and the Sarstoon.

The language employed by Mr. Clayton is, "the British Settlement in Honduras." Now whilst such a Settlement exists under the Treaty of 1786, to which this language is precisely applicable, it would be a most strained construction to extend its application beyond the Treaty limits, and make it protect the encroachments of the British settlers over a larger territory than that included within the Settlement itself.

Besides, Mr. Clayton states in a subsequent part of the same document, that the Convention of 1850 "was understood to apply to and does include all the Central American States of Guatemala, Honduras, San Salvador, Nicaragua, and Costa Rica, with their just limits and proper dependencies." Then under this declaration itself, the territory in question, being within "the just limits" of the State of Guatemala, is expressly embraced by the Convention.

Lord Clarendon considers himself "more warranted" in concluding that Mr. Clayton's statement applies to this territory, "from the fact that the United States had in 1847 sent a Consul to the Settlement, which Consul had received his exequatur from the British Government; a circumstance," says his Lordship, "which constitutes a recognition by the United States' Government of the Settlement of British Honduras under Her Majesty, as it then existed."

Now it would be easy to prove that a Consul is never sent to a whole Settlement or to an entire nation, but only to a single port for the purposes of superintending the commerce at that port; and, therefore, that no inference could be drawn from the fact that the United States had sent a Consul to the port of Belize within the Treaty limits, in favour of the claim of Great Britain to a country far beyond these limits; but this would not be sufficient for the occasion. Mr. Buchanan emphatically denies the proposition that the appointment of a Consul to Belize was any, even the slightest, recognition of the right of Great Britain to this very port.

A Consul is an officer appointed to reside in a foreign country, for the purpose of facilitating, extending, and protecting the trade of his nation with that country. Such officers follow foreign trade wherever it may go, and afford protection to it, no matter whether the ports to which they are sent, be in the possession of the rightful owner or a usurper. The appointment of a Consul recognizes nothing more than the *de facto* possession of the port by the Power from which his exequatur is received. Such an appointment does not, in the slightest degree, interfere with the question of the right *de jure* of this Power to be in possession. This has ever been, and this must ever be, the law and practice of modern commercial nations. If it were otherwise, then before the appointment of a Consul, the Government of a nation must first carefully inquire whether the party in possession be the rightful owner of the port; and if they determine against its right, then the commerce with it must either cease altogether, or remain without Consular protection. This would be a novel doctrine to maintain in the present age of commercial progress.

The laws and practice of nations have for a long period been clear on this point, because Consuls are mere commercial and not political agents. At the present time even the appointment of a public Minister is wisely considered as a recognition of nothing more than the *de facto* possession of the Power to which he is accredited.

The British statement claims the territory between the Sibun and the Sarstoon by right of conquest, and observes "that the Treaty of 1786 was put an end to by a subsequent state of war" with Spain, and "that during that war the boundaries of the British Settlement in question were enlarged;" and that the subsequent Treaty of Peace not having revived the Treaties of 1783 and 1786, Great Britain is entitled to retain this territory.

It may be observed that the statement does not mention at what

period the boundaries of the British Settlement were enlarged. If this took place, as it is believed it did, after the date of the Treaty of Alliance between Great Britain and Spain in 1809, which terminated the war, then this argument falls to the ground. If before 1809, Great Britain, when concluding this Treaty, ought to have informed Spain that she intended to convert the encroachments of the settlers in Belize on Spanish territory into an absolute right. That she did not then intend to pursue such a course towards an ally in distress, is clear from her subsequent conduct.

In 1814 Great Britain revived all her pre-existing commercial Treaties with Spain; and what is the privilege granted to her by the Treaty of 1786, of cutting mahogany, logwood, and other dyewoods on Spanish territory, thus enabling her to extend British commerce in these articles, but a commercial privilege?

So far from the Treaty of 1786 being "put an end to" by the war, its continued existence in 1817 and 1819 was recognized by Acts of the British Parliament. These declare in so many words that Belize was "not within the territory and dominion of His Majesty," but was merely "a Settlement for certain purposes in the possession and under the protection of His Majesty."

For the nature of this "Settlement" and a knowledge of these "certain purposes" we can refer nowhere, except to the Treaties of 1783 and 1786.

In addition to these Acts of Parliament, it is proper here to repeat that so late as 1826, Great Britain has, by her Treaty with Mexico, acknowledged the continued existence and binding force of the Treaty of 1786.

But no matter what may be the nature of the British claim to the country between the Sibun and the Sarstoon; the observation already made in reference to the Bay Islands and the Mosquito Coast must be reiterated, that the great question does not turn upon the validity of this claim previous to the Convention of 1850, but upon the fact that Great Britain has bound herself by this Convention not to occupy any part of Central America nor to exercise dominion over it, and that the territory in question is within Central America, even under the most limited construction of these words.

In regard to Belize Proper, confined within its legitimate boundaries, under the Treaties of 1783 and 1786, and limited to the usufruct specified in these Treaties, it is necessary to say but a few words. The Government of the United States will not, for the present, insist upon the withdrawal of Great Britain from this Settlement, provided all the other questions between the two Governments concerning Central America can be amicably adjusted. It has been influenced to pursue this course, partly by the declaration of Mr. Clayton, of the 4th of July, 1850, but mainly in consequence of the extension of the license granted by Mexico to Great Britain under the Treaty of 1826, which that Republic has yet taken no steps to terminate.

It is, however, distinctly to be understood that the Government of the United States acknowledge no claim of Great Britain within Belize, except the temporary "liberty of making use of the wood of the different kinds, the fruits and other produce in their natural state," fully recognising that the former Spanish sovereignty over the country belongs either to Guatemala or Mexico.

In conclusion, the Government of the United States most cordially and earnestly unite in the desire expressed by "Her Majesty's Government, not only to maintain the Convention of 1850 intact, but to consolidate and strengthen it by strengthening and consolidating the friendly relations which it was calculated to cement and perpetuate." Under these mutual feelings it is deeply to be regretted that the two Governments entertain opinions so widely different in regard to its true effect and meaning.

(Signed) JAMES BUCHANAN.

United States' Legation, London, July 22, 1854.

No. 179.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, August 5, 1854.

WITH reference to my despatch of the 4th of May last, inclosing copies of memoranda* which had been interchanged between the United States' Minister in this country and myself, respecting the territories occupied by Great Britain in the Bay of Honduras, and the Protectorate afforded to the Mosquito nation by the British Crown, I inclose herewith, for your information, a copy of a further statement which I have received from Mr. Buchanan upon this subject.†

I am, &c.

(Signed) CLARENDON.

No. 180.

Mr. Buchanan to the Earl of Clarendon.—(Received September 11.)

*Legation of the United States,
London, September 11, 1855.*

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States, has been instructed by the President again to call the attention of the Earl of Clarendon, Her Majesty's Principal Secretary of State for Foreign Affairs, to the Central American questions pending between the two Governments, under the Convention of the 19th April, 1850.

The President has directed the Undersigned, before retiring from his Mission, to request from the British Government a statement of the positions which it has determined to maintain in regard to the Bay Islands; to the territory between the Sibun and the Sarstoon, as well as the Belize Settlement; and to the Mosquito Protectorate. The long delay in asking for this information has proceeded from the President's reluctance to manifest any impatience on this important subject whilst the attention of Her Majesty's Government was engrossed by the war with Russia. But as more than a year has already elapsed since the termination of the discussion on these questions, and as the first Session of a new Congress is rapidly approaching, the President does not feel that he would be justified in any longer delay.

Whilst it is far from the purpose of the Undersigned to reopen the general discussion, he has been instructed to communicate to the Earl of Clarendon the conclusions at which the President has arrived upon the whole case.

After having carefully reviewed and reconsidered all the questions involved, with the light cast upon them by the Earl of Clarendon's statement of the 2nd May, 1854, the President has expressed his unwillingness to believe that the positions which he conceives to be rather indicated therein than finally adopted, will be adhered to by the British Government.

It was, in his opinion, the manifest intention of the Convention to exclude both the Contracting Parties from holding or occupying, as well as from acquiring, territorial possessions in Central America; and that this intention is not clothed in ambiguous language, but is set forth in explicit terms. The United States have bound themselves not to acquire any such possessions, and Great Britain has stipulated not to "assume or exercise any dominion over any part of Central America." Indeed, without such reciprocal engagement, no mutuality whatever would have existed between the covenants of the Contracting Parties. Whilst the United States are excluded from occupying, colonising, or exercising dominion over any part of Central America, it cannot be admitted that

* Nos. 175 and 176.

† No. 178.

the same restriction, imposed in the very same language, is not equally applicable to Great Britain.

The President therefore confidently believes that Great Britain is bound by the first Article of the Convention of 1850, to withdraw from the possession she now holds of Ruatan and the other Central American Islands on the coast of the State of Honduras, as well as from the territory in Central America between the Sibun and the Sarstoon, which has been encroached upon by Her Majesty's subjects. He is also of opinion that the possession of the British Government at the Belize should be restricted to the limits and objects specified in the Treaties between Great Britain and Spain of 1783 and 1786.

In regard to the alleged protectorate over the so-called Mosquito Kingdom, the President has instructed the Undersigned to say, it was his confident belief that this protectorate had been finally disposed of by the Convention. It is, therefore, much to his regret that he finds it is still continued as the basis of the British dominion over an extensive region in Central America.

Even although Great Britain admits that the Convention has imposed restrictions on the Protectorate claimed, yet she still continues to exercise the same dominion over the Mosquito Coast which she had done before its date. Indeed, at the present moment, no visible power, civil or military, exists in the Mosquito territory, except that which is exercised by British subjects, notwithstanding the Convention expressly prohibits both parties from using any protection which either may afford to any State or people, for the purpose of occupying, fortifying, or colonizing the Mosquito Coast, or any part of Central America, or for the purpose of assuming or exercising dominion over the same.

The declaration of the British Government, that this Protectorate is only employed for the security of the rights of the Mosquito Indians, and that it is ready to abstain from further interference in that country whenever these rights can, in a proper manner, be guaranteed to them, cannot be recognised by the United States as having any foundation in the Convention. The President considers this to be a question between Nicaragua and the Indians within its territory, with which neither Great Britain nor the United States has any right to interfere, except in friendly conference with the authorities of that State.

Having thus distinctly presented to the British Government the views of the Government of the United States in regard to the obligations imposed by the Convention of 1850, the President feels assured that the Earl of Clarendon will, with characteristic frankness, be equally explicit in presenting the views of the British Government in regard to these obligations.

In conclusion, the Undersigned is instructed to state that the President does not doubt that the interests of the two countries, and their mutual desire to maintain existing friendly relations, will alike inspire each party with a conciliatory spirit, and enable them to overcome all obstacles to a satisfactory adjustment of the Central American questions.

The Undersigned, &c.

(Signed)

JAMES BUCHANAN.

No. 181.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, September 28, 1855.

I INCLOSE herewith, for your information, a copy of a note* which I have received from the United States' Minister at this Court, stating that he had been directed by the President, before retiring from his Mission, to request from the British Government a statement of the positions which it has determined to maintain in regard to the Bay

* No. 180.

Islands, to the territory between the Sibun and Sarstoon, as well as the Belize Settlement, and to the Mosquito Protectorate, and stating the conclusions at which the President has arrived upon the whole case.

I also inclose a copy of the answer* which I have returned to Mr. Buchanan's note.

I am, &c.
(Signed) CLARENDON.

No. 182.

The Earl of Clarendon to Mr. Buchanan.

Foreign Office, September 28, 1855.

THE Undersigned, &c., has the honour to acknowledge the receipt of the note which Mr. Buchanan, &c., addressed to him on the 11th instant, stating that he had been directed by the President, before retiring from his Mission, to request from the British Government a statement of the positions which it has determined to maintain in regard to the Bay Islands, to the territory between the Sibun and the Sarstoon, as well as the Belize Settlement, and to the Mosquito Protectorate, and setting forth the conclusions at which the President has arrived upon the whole case; namely, that it was the intention of the Convention of the 19th of April, 1850, to exclude both the Contracting Parties from holding or occupying, as well as from acquiring, territorial possessions in Central America, and that, consequently, Great Britain is bound to withdraw from the possession she now holds of Ruatan and other Central American islands on the coast of the State of Honduras, as well as from the territory in Central America between the Sibun and the Sarstoon; that the possession of the British Government at Belize should be restricted to the limits and objects specified in the Treaties between Great Britain and Spain, of 1783 and 1786; and that the Protectorate of the so-called Mosquito Kingdom was finally disposed of by the Convention.

The Undersigned observes with satisfaction that while thus expressing the opinion of the President of the United States on the several points thus enumerated, Mr. Buchanan announces that it is far from his purpose to reopen the general discussion upon them. Her Majesty's Government had, indeed, refrained from pursuing that discussion, by replying to Mr. Buchanan's note of the 22nd of July, 1854, because it appeared to them that the continuation of the correspondence was not likely to lead to any satisfactory conclusion; and as Her Majesty's Government are still of that opinion, the Undersigned will confine his answer to Mr. Buchanan's present note within the same limits as those which Mr. Buchanan has prescribed to himself.

In answer therefore to the questions put by Mr. Buchanan, the Undersigned has the honour to state to him that Her Majesty's Government adhere to the opinion which they have uniformly held, that the Convention of April 19, 1850, was merely prospective in its operation, and did not in any way interfere with the state of things existing at the time of its conclusion. If it had been intended to do so, there can be no question but that in conformity with what the Undersigned believes to be the universal rule in regard to instruments of this nature, it would have contained in specific terms a renunciation on the part of Great Britain of the possessions and rights which, up to the conclusion of the Convention, she had claimed to maintain, and such renunciation would not have been left as a mere matter of inference.

Neither can Her Majesty's Government subscribe to the position, that, if the Convention did not bear the meaning attached to it by the United States, it would have imposed upon the Government of the United States a self-denying obligation which was not equally contracted by Great Britain, and that such a state of things could not have been in the intention of the Contracting Parties; because if the Convention did bear the meaning

attached to it by the United States, it would then have imposed upon Great Britain the obligation to renounce possessions and rights without any equivalent renunciation on the part of the United States. If the Government of the United States can complain in the one case of the Convention as presenting an unilateral character unfavourable to the United States, with much greater reason might the Government of Great Britain, in the other case, if the assumption of the Government of the United States were to be acted upon in the construction of the Convention, complain of it as prejudicial to England.

But looking to the object which the Contracting Parties had in view at the conclusion of the Convention, namely, the security of the proposed Ship-Canal, the British Government consider that the design of the Contracting Parties was not to disturb any state of things then existing, but to guard against the future creation of a state of things which might by possibility interfere with the security of the proposed Canal. That such was the true design of the Convention is obvious from the provision in the sixth Article by which the Contracting Parties engaged to invite every State to enter into stipulations with them similar to those contained in the Convention. But if the position of the United States' Government were sound, and the Convention was intended to interfere with the state of things existing at the time of its conclusion, and to impose upon Great Britain to withdraw from portions of territory occupied by it, a similar obligation would be contracted by other States acceding to the Convention, and the Governments of the Central American States would, by the mere act of accession, sign away their rights to the territories in which they are situated.

The British Government share the conviction of the President of the United States, that the interests of the two countries and their mutual desire to maintain existing friendly relations, will alike inspire each party with a conciliatory spirit, and enable them to overcome all obstacles to a satisfactory adjustment of Central American questions. The British Government see no reason why it should be otherwise. The British Government neither have the wish to extend the limits of their possessions or the sphere of their influence in that quarter, nor would any British interest be promoted by doing so. But the British Government are not prepared to contract either the one or the other in pursuance of the interpretation of a Convention, to which interpretation they cannot subscribe.

The Undersigned, &c. (Signed) CLARENDON.

No. 183.

Mr. Buchanan to the Earl of Clarendon.—(Received October 4.)

*Legation of the United States,
London, October 4, 1855.*

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States, has the honour to acknowledge the receipt of the note of the Earl of Clarendon, Her Majesty's Principal Secretary of State for Foreign Affairs, dated on the 28th ultimo, in reply to the note of the Undersigned of the 11th ultimo, in reference to the Central American questions between the two Governments; and he will not fail to transmit a copy of the same, by the next steamer, to the Secretary of State at Washington.

Whilst far from intending to renew the general discussion of these questions, which has already been exhausted, the Undersigned, in passing, would make a single observation in regard to the Earl of Clarendon's remark, that if the Convention of the 19th of April, 1850, had intended that Great Britain should withdraw from her possessions in Central America, "it would have contained, in specific terms, a renunciation" to that effect, "and such renunciation would not have been left as a mere matter of inference."

Now, it appears to the Undersigned that an engagement by a party not "to occupy," "or exercise any dominion" over territory of which that party is in actual possession at the date of the engagement, is equivalent

in all respects to an agreement to withdraw from such territory. Under these circumstances, this is not "a mere matter of inference;" because the one proposition is necessarily and inseparably involved in the other, and they are merely alternative modes of expressing the same idea. In such a case, to withdraw is not to occupy, and not to occupy is necessarily to withdraw.

The Undersigned needs no apology for briefly adverting to another argument of the Earl of Clarendon; because it has now for the first time been advanced. He states, that "if the position of the United States' Government were sound, and the Convention was intended to interfere with the state of things existing at the time of its conclusion, and to impose upon Great Britain to withdraw from portions of territory occupied by it, a similar obligation would be contracted by other States acceding to the Convention [under the VIth Article], and the Governments of the Central American States would, by the mere act of accession, sign away their rights to the territories in which they are situated."

Confining himself strictly to this single view of the subject, the Undersigned would observe that, notwithstanding the general terms employed by the Convention, an examination of its provisions, and especially of the VIth Article itself, will prove it never intended that the Central American States should become joint parties to this Treaty, with the United States, Great Britain, and other Governments exterior to Central America. These States are the subjects on which the guarantees of the Convention were to act; and the exclusion of all other Powers from the occupancy of Central America, with a view to the security not only of this Canal, but all other canals or railroads across the Isthmus, was one of the main objects to be accomplished by the Treaty.

The Earl of Clarendon has himself indicated how absurd it would be for the Central American Governments to become joint parties to this Convention, according to the American construction. It would, however, be none the less absurd according to the British construction; because then no Central American State could accede to the Treaty without confining itself for ever within its existing boundaries, and agreeing not to add to its territory and extend its occupation under any possible circumstances which might arise in the future.

Besides, were it possible for Nicaragua, for example, to become a party to this joint Convention, she would then take upon herself the extraordinary obligation to use her own influence with herself, under the fourth Article, to induce herself to facilitate the construction of the Canal, and to use her good offices to procure from herself "the establishment of two free ports, one at each end of the Canal," both these ports being within her own limits. Consequences almost equally extraordinary would result from other portions of the Convention.

But although the Contracting Parties could not have intended that the Central American States should become joint parties to the Convention, yet they foresaw that it would be necessary to obtain stipulations from one or more of them, individually, providing for the security of the proposed Canal, adapted to their anomalous condition, and without interfering in any manner with their territorial possessions. Accordingly, in the sixth Article, and in the clause next following that commented upon by the Earl of Clarendon, the Convention provides as follows:—

"And the Contracting Parties likewise agree that each shall enter into Treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this Convention, namely, that of constructing and maintaining the said Canal as a ship-communication between the two oceans, for the benefit of mankind, on equal terms to all, and of protecting the same," &c.

In order to arrive at the conclusion that the Central American States are embraced in the general language of the first clause of the sixth Article, it would be necessary to overlook this second clause entirely, or, at least, to regard it as unnecessary and without meaning.

The Undersigned, &c.

(Signed)

JAMES BUCHANAN.

No. 184.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, October 5, 1855.

WITH reference to my despatch of the 27th ultimo, inclosing copies of a note from Mr. Buchanan, and of the answer which I had returned to it, respecting the Central American and Mosquito questions, I transmit to you herewith, for your information, a copy of a further note* from Mr. Buchanan, stating his views as to the interpretation to be put upon the VIth Article of the Nicaragua Ship-Canal Treaty of April 19, 1850.

I am, &c.
(Signed) CLARENDON.

No. 185.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, November 10, 1855.

MR. BUCHANAN having, in the course of conversation a few days ago, adverted to the impression that would be created in the United States by the non-settlement of the Central American question, I again assured him that England had no wish to extend her influence or to obtain any territory in that part of the world; and I reminded him that as the difference between this country and the United States turned solely upon the interpretation of the Treaty of 1850, I had offered, on the part of Her Majesty's Government, to submit the case to the arbitration of a third Power, but that he had declined the offer. Her Majesty's Government, I said, would still abide by that offer, and thought it would be the fairest and most amicable manner of arriving at a settlement of the question.

Mr. Buchanan said he would make it known to his Government; and you are instructed to communicate this despatch to Mr. Marcy.

I am, &c.
(Signed) CLARENDON.

No. 186.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, February 8, 1856.

MR. BUCHANAN called here two days ago, and, with reference to a statement of mine in the House of Lords on the 31st ultimo, that Her Majesty's Government had offered to the United States' Government to refer to arbitration the interpretation of the Treaty of 1850, said he had not understood that any such offer had been officially and formally made to him, although he admitted that it had frequently been mentioned by me.

I told Mr. Buchanan that I received this communication with the utmost surprise, and that I really was at a loss to understand it, as the offer had been made by me in the most formal manner by direction of the Cabinet; that he had discussed with me the objections to the course and the difficulty of selecting any Power whom both parties would regard as impartial; that, in fact, we had hardly even discussed the Central American question together, without my saying that arbitration would be the fairest way of settling the matter, and that nearly three months ago I had again called his attention to the offer of Her Majesty's Government, which he had promised to report to his Government. I then read to

Mr. Buchanan my despatch to you dated November 10, the correctness of which he did not dispute, and I said I had thought it right, in the event of any correspondence being laid before Congress, that the proposal of Her Majesty's Government should be made known officially to Mr. Marcy through you, otherwise I had not been in the habit of addressing public despatches to you on the subject, as I found that Mr. Marcy considered that the question was entirely in Mr. Buchanan's hands. Indeed I had, as much as possible, avoided writing upon the matter, and had, therefore, not answered Mr. Buchanan's last note, although there was much in it that merited reply, because I wished to avoid all cause of irritation, and saw reason to think that this correspondence might assume a polemical and angry tone. I had given him therefore the advantage of the last word, and my communications had all been verbal, but it was a great satisfaction to me to reflect that neither upon that, nor upon any other subject, in the course of two years, had a hasty word passed between us, or anything that would not tend to promote kindly feelings between our respective countries.

Mr. Buchanan cordially concurred as to the friendly character of our relations, and said that, although he had not considered the offer of arbitration to have been made in a formal manner, yet that he had invariably reported to his Government everything that had fallen from me on the subject.

In answer to an inquiry from me, Mr. Buchanan added that no notice had been taken of the offer of arbitration by his Government.

I am, &c.

(Signed) CLARENDON.

No. 187.

Mr. Crampton to the Earl of Clarendon.—(Received March 18.)

My Lord,

Washington, March 4, 1856.

WITH reference to your Lordship's despatch of the 8th ultimo, informing me that, to your Lordship's great surprise, Mr. Buchanan had stated to you that he had not understood your Lordship as having proposed formally to submit to arbitration the points in dispute between the two Governments in respect to the interpretation of the Clayton-Bulwer Treaty, I learnt with equal surprise, a few days since, before the receipt of your Lordship's despatch, that the Government of the United States were under the same impression, and that the President intended, in answer to an inquiry on the part of the Senate, to send a Message to that Body, in which it would be stated that no such offer had ever been understood to have been made.

Your Lordship has on so many occasions, in your unofficial as well as in your official correspondence with me, alluded to this proposal having been made by you to Mr. Buchanan, that it did not occur to me as possible that he had not conveyed it to his Government; and as the subject of the Central American question, the negotiation of which Mr. Marcy had on several occasions informed me he considered to have been, on the part of the American Government, confided exclusively to Mr. Buchanan's hands, had not, consequently, come under discussion between Mr. Marcy and myself, I did not conceive it to be necessary or desirable that I should originate any conversation on that topic, or make him a formal communication of the information conveyed to me by your Lordship's despatch of the 10th November last.

On receiving the above information of the misapprehension of the United States' Government, I referred to that despatch, and finding that it contained an instruction to me to communicate it to Mr. Marcy, I immediately did so, with a short explanatory note.

I must certainly take blame to myself for not having executed the instruction at an earlier period; but I confess that the passage of the despatch conveying it to me had escaped my attention, and I had looked

upon the despatch as intended to apprise me of what was going forward, rather than as an instruction to make a formal offer of arbitration to the United States' Government.

Under this impression I thought it would be better for me to defer speaking to Mr. Marcy on the subject of the proposed arbitration until he should allude to it, for I apprehended that my interference in the matter might be taken as an undue intermeddling in a negotiation not under my charge, and as evincing a precaution which might not be well received, intended to guard against some presumed negligence on Mr. Buchanan's part, which ought to have been supposed possible by Her Majesty's Government.

In the mean time I lost no opportunity of stating to leading Senators and other persons that such an offer had been made by Her Majesty's Government.

Congress is now, however, in possession of the fact, and although certain Senators, and certain newspapers, have thought proper to attribute to Her Majesty's Government and myself the most extraordinary motives for what they consider to be your Lordship's negligence, and not Mr. Buchanan's misapprehension, I am quite at a loss to conceive what object they can possibly imagine Her Majesty's Government could have in misleading the Government of the United States, and thus defeating for a time the object which Her Majesty's Government themselves had in view.

I have only to repeat to your Lordship the regret that an oversight of my own may have in any sort contributed to prolong the erroneous impression produced by Mr. Buchanan's mistake of your Lordship's meaning.

I have the honour to inclose copies of the correspondence laid before Congress upon this subject.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 187.

Message.

To the Senate of the United States :

I TRANSMIT a report from the Secretary of State, with accompanying papers, in answer to the resolution of the Senate of yesterday.

(Signed) FRANKLIN PIERCE.
Washington, February 29, 1856.

To the President of the United States :

The Secretary of State, to whom was referred the resolution of the Senate of yesterday, requesting the President, if in his opinion it be not incompatible with the public interest, to inform that body "whether any offer has been made by the Government of Great Britain to the Government of the United States to refer to the arbitrement of some friendly Power, or otherwise, the questions in difference between the two Governments upon the construction of the Convention of the 4th July (19th April), 1850, with any correspondence touching or concerning such proposed arbitration," has the honour to lay before the President the papers mentioned in the subjoined list, which contain all the information in this Department called for by the resolution.

All which is respectfully submitted.

(Signed) W. L. MARCY.
Department of State, Washington, February 29, 1856.

List of Papers accompanying the Report of the Secretary of State to the President of the 29th of February, 1856.

Mr. Buchanan to Mr. Marcy (extract), November 21, 1854.
 The same to the same (extracts), November 2, 1855.
 The same to the same (extract), November 9, 1855.
 The same to the same (extracts), February 5, 1856.
 The same to the same (extract), February 8, 1856.
 Mr. Crampton to Mr. Marcy (extract), February 27, 1856.
 Lord Clarendon to Mr. Crampton, November 10, 1855.

Mr. Buchanan to Mr. Marcy.

(No. 49.)
 (Extract.)

*Legation of the United States,
 London, November 21, 1854.*

In the course of the conversation he intimated that it might be desirable to have the opinion of a third Power on the true construction of the Convention. To this I playfully observed that it would now be difficult to find an impartial umpire, as they had gone to war with our arbitrator, the Emperor of Russia. This was, however, but a mere intimation on his part. I then urged upon him as strongly as I could the reasons which I thought ought to induce the British Government to relinquish the Bay Islands to Honduras. He replied that these islands were not of the least value to Great Britain, and the only question with them was whether the national honour did not forbid this course.

Mr. Buchanan to Mr. Marcy.

(No. 99.)
 (Extract.)

*Legation of the United States,
 London, November 2, 1855.*

According to the appointment mentioned in my last despatch, I met Lord Clarendon yesterday afternoon at the Foreign Office.

In the course of the conversation I observed to him that the most serious difficulty between the Governments might arise out of the Central American questions. He said that when two Governments disagreed about the construction of a Treaty, the best and most natural mode was to refer the question to a third Power. At an early period of the negotiation he had made this suggestion; but I had jocularly replied that the Emperor of Russia was the only Power sufficiently independent to act as an impartial umpire in the case, and they had gone to war with him.

Mr. Buchanan to Mr. Marcy.

(No. 101.)
 (Extract.)

*Legation of the United States,
 London, November 9, 1855.*

I had an interview with Lord Clarendon yesterday by appointment.

He then said—about these Central American questions—the best mode of settling them is by arbitration. I replied there was nothing to arbitrate. He said the true construction of the Treaty was a proper subject for arbitration. I told him I did not consider it a question for construction at all—the language was plain and explicit, and I thought this would be the almost unanimous opinion of the American people; but in writing to you I should mention what he had now said, as I had done what he had said at our former interview.

Mr. Buchanan to Mr. Marcy.

(No. 119.)
(Extract.)

*Legation of the United States,
London, February 5, 1856.*

Ere this can reach Washington you will have read the speeches of Lord Derby and Lord Clarendon in the House of Lords on Thursday evening last, which will speak for themselves.

Lord Clarendon says, in relation to the Central American questions:—

“In such a case correspondence is useless, and I lost no time in offering to refer the whole question to the arbitration of any third Power, both sides agreeing to be bound by the decision. That offer has not yet been accepted; it has been renewed, and I hope that, upon further consideration, the Government of the United States will agree to it.”

It is, therefore, proper for me to state as a matter of fact, that I have reported to you in the most faithful manner every conversation which has passed between Lord Clarendon and myself on the subject of a reference of these questions to a friendly Power. As I have never learned that the British Government has made any such offer to the Government of the United States through Mr. Crampton, I infer that his Lordship must have referred to the general conversations between him and myself, which would by no means justify the broad terms of his statement. Thus much merely to vindicate the truth of history.

Mr. Buchanan to Mr. Marcy.

(No. 120.)
(Extract.)

*Legation of the United States,
London, February 8, 1856.*

On Wednesday last, the 6th instant, I had an interview with Lord Clarendon at the Foreign Office. I told him I desired to ascertain whether the statement he had made in the House of Lords on the evening of Thursday, the 31st ultimo, that the British Government had made to the American Government an offer, which has been recently renewed, to arbitrate the Central American questions, was founded on what had passed between him and myself in conversation; or whether he had instructed Mr. Crampton to make to you, in writing, a formal proposal for arbitration.

He replied, that his statement was founded on our different conversations; and that in these he had several times proposed to me a reference of these questions to arbitration; and he expressed the hope that I had communicated his propositions to my Government.

I informed him that I had faithfully reported to you all the conversations we had held in reference to an arbitration; but I had not believed that what he had said on these occasions amounted to such an offer as could be recognized by our Government as a foundation for specific action on so grave a matter. I added that I did not doubt you were of the same opinion, as I had never received a line from you on the subject.

He observed that before holding these conversations with me he had consulted the Cabinet, and spoke their sentiments as well as his own.

I remarked that this fact had now, for the first time, been communicated to me. If he had informed me of it at the time, this would have given his conversation a more serious character, and caused it to make a deeper impression on my mind.

He said he had thought that, as a matter of course, I would consider what he had said to me had been said after consultation with the Cabinet.

In reply, I observed that I had thought when one nation desired to propose to another the submission of an international dispute to arbitration, this would be done by writing and in due form. Such had been their own course when they proposed to arbitrate the Oregon question. Besides, the President might, if he thought proper, consult the Senate on the question; and what would be thought by that body if such a proposition were presented to them in the loose form of various conversations between

him and myself, which, after all, I might, through mistake or inadvertence, not have reported correctly?

He said that what he had done he considered the preliminary step; and if our Government had indicated any satisfaction with it, they would have been prepared to proceed further; but from what I had said to him he did not think they had received much encouragement.

I told him that whenever I had spoken to him upon the subject I had always been careful to assure him that I was expressing my own individual sentiments, without any instructions or information from my Government; and that these remained unchanged. I also observed that his last letter to me, finally denying our construction of the Treaty, and forming an issue between the two Governments, might appropriately have contained a proposition for arbitration; and in this manner the question might have been brought in regular form before our Government.

He then, for the first time, informed me that he had addressed a despatch to Mr. Crampton on the subject, with instructions to him to read it to you. He then sent for it and read it to me. I believe it is dated in November; but a copy being doubtless in your possession, it will speak for itself; and he informed me that all you had said about it to Mr. Crampton was, that the matter was in Mr. Buchanan's hands.

He proceeded to express a decided opinion in favour of arbitration, and said that when two friendly Governments disagreed upon the construction of a Treaty the natural and appropriate course was to refer the question to a third friendly Power. He had ever firmly believed their construction of the Treaty to be correct. He then requested me to communicate to you their proposals for an arbitration, and how anxious they were that the question might be settled in this manner.

I told him I should cheerfully comply with his request, but repeated that my own individual opinions remained unchanged. I considered the language of the Treaty too clear for serious doubt; and such I believed was the opinion of public men of all parties in the United States. This had been evinced by the recent debate in the Senate on the President's Message. Besides, the difficulty of selecting a suitable Sovereign as an arbitrator seemed insurmountable. But I said this was a question for my Government, and not for myself.

Mr. Crampton to Mr. Marcy.

My dear Sir,

Washington, February 27, 1856.

Observing that some misapprehension seems to exist as to the offer made by Lord Clarendon to Mr. Buchanan, to submit the points regarding the interpretation of the Clayton-Bulwer Treaty, upon which the two Governments disagree, to arbitration, I think it well to send you the inclosed despatch, which I received from Lord Clarendon on the subject in December last.

I regret not having made you this communication before; but the truth is that the last paragraph of the despatch escaped my attention until I referred to it lately; and, as I was aware that the negotiation of the question regarding Central America was in Mr. Buchanan's and Lord Clarendon's hands, I considered the despatch as meant merely for my own information as to what was going forward upon a subject in regard to which I inferred you were already informed.

Believe me, &c.

(Signed) JOHN F. CRAMPTON.

P.S.—I send the original despatch, which I will beg of you to return to me, but I have no objection to your taking a copy of it.

J. F. C.

The Earl of Clarendon to Mr. Crampton, November 10, 1855.

[See No. 185.]

No. 188.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, March 26, 1856.

I HAVE received your despatch of the 4th instant, explaining your omission to acquaint Mr. Marcy of the desire of Her Majesty's Government to submit to arbitration their differences with the Government of the United States respecting the interpretation of the Treaty of the 19th of April, 1850, which by my despatch of the 10th of November you were instructed to do.

The Government of the United States cannot, however, found on your omission any allegation that they were thereby left in ignorance of any such offer having been made by Her Majesty's Government; for, as I informed you in my despatch of the 8th of February, giving an account of Mr. Buchanan's statement that the offer of arbitration had not been formally made, Mr. Buchanan distinctly told me that whatever I had said to him upon the subject had been reported to his Government.

I cannot, however, but regret that you did not act upon the instruction conveyed in my despatch of the 10th November last, for, as it turns out, your doing so would have made misunderstanding impossible; but, at the same time, it is right to add that you had repeatedly informed me that Mr. Marcy declined entering upon a question which was confided entirely to Mr. Buchanan, and such being the case it certainly never occurred to me that the United States' Government could have been ignorant of the offer of arbitration, which had been repeatedly made, and strongly recommended by me as the only mode of settling in an honourable and satisfactory manner a difference of opinion respecting the interpretation of a Treaty

I am, &c.
(Signed) CLARENDON.

No. 189.

Mr. Crampton to the Earl of Clarendon.—(Received April 12.)

(Extract.)

Washington, March 31, 1856.

IT will be within your Lordship's recollection that Mr. Clayton was informed by Sir Henry Bulwer before the Treaty of 1850 was signed, that Ruatan was *de jure* and *de facto* a British possession; and Mr. Clayton has on various occasions since, in conversation with me, stated that he considered Ruatan as much a British possession as Jamaica, or any other British West Indian Island.

FURTHER CORRESPONDENCE

WITH

THE UNITED STATES

RESPECTING

CENTRAL AMERICA.

Presented to both Houses of Parliament by Command of Her Majesty.
1856.

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Further Correspondence with the United States respecting Central America.

No. 1.

*Mr. Marcy to Mr. Dallas.—(Communicated to the Earl of Clarendon by
Mr. Dallas, June 11.)*

(No. 13.)

Sir,

Department of State, Washington, May 24, 1856.

I AM directed by the President to address you on the subject of the difference of opinion between the British Government and that of the United States, regarding the construction and effect of the Convention of April 19, 1850, and the subject of Central America generally, and to state to you the views which the President entertains of that question, as it now stands, in order that you may communicate the same to the Earl of Clarendon, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs.

You are aware that there has been no direct communication between the two Governments, on the main subject, since the letter of your predecessor, Mr. Buchanan, to the Earl of Clarendon, dated September 11, 1855, his Lordship's reply of the 28th of the same September, and a brief rejoinder by Mr. Buchanan on the 4th of the following October.

In his letter of the 11th of September, Mr. Buchanan, briefly recapitulating the conclusions at which the President had arrived on the whole case, and which had been fully explained to the British Government in his previous despatches, reminded Lord Clarendon that more than a year had already elapsed without any new step being taken by the United States in the discussion, from unwillingness to press the subject while the attention of Her Majesty's Government was engrossed by the war with Russia; and he proceeded to say that the President had directed him, before retiring from his mission, as he was then about to do, to request from the British Government a statement of the positions which it had determined to maintain, more especially in regard to the Bay Islands, the Belize Settlement, and the Mosquito protectorate.

To this communication the Earl of Clarendon replied, stating, as the final opinion of Her Majesty's Government, that "the Convention of April 19, 1850, was merely prospective in its operation, and did not in any way interfere with the state of things existing at the time of its conclusion." He repeats this idea afterwards in other forms of expression, saying, in one place, that "the British Government consider that the design of the Contracting Parties was not to disturb any state of things then existing;" and in another place, that, while the British Government have no wish "to extend the limits of their possessions or the sphere of their influence" in Central America, they "are not prepared to contract either the one or the other, in pursuance of the interpretation of a Convention, to which interpretation they cannot subscribe."

Here, with exception of the brief note from Mr. Buchanan to Lord Clarendon of the 4th of October, 1855, and that upon a single point only, the correspondence, touching the general question, has remained suspended.

It will thus be perceived that, in his closing despatch, the Earl of Clarendon desists from all further discussion of the main objects of controversy which had previously occupied the attention of the two Governments, and rests the case upon the single position, then at length definitively assumed and expressly

announced, of a particular hypothesis touching the construction of the Convention.

The President could not but receive this announcement with equal surprise and regret. He would, indeed, have been constrained to regard it as an abrupt and complete termination of all correspondence on the subject between the two Governments, and as imposing on this Government the painful duty of solemnly declaring that the Convention had now ceased to be obligatory on the United States, but for the following expressions in the Earl of Clarendon's despatch:—

“The British Government share the conviction of the President of the United States that the interests of the two countries and their mutual desire to maintain existing friendly relations will alike inspire each party with a conciliatory spirit, and enable them to overcome all obstacles to a satisfactory adjustment of Central American questions. The British Government see no reason why it should be otherwise.”

This language on the part of Her Majesty's Principal Secretary for Foreign Affairs did have the effect of preventing the President from dismissing all hope of an amicable adjustment of the serious misunderstanding which had grown up between the two Governments. He would have been better satisfied if, in expressing conviction that all obstacles to a satisfactory adjustment of the controversy might, with conciliatory spirit on both sides, be overcome, his Lordship had been pleased to indicate the means which, in his judgment, were calculated to produce so desirable a consummation. For want of this the President has been left to conjecture the precise idea of Her Majesty's Government. He cannot be certain that his conjecture concerning it is well founded; but he is induced, by certain collateral incidents which have occurred, to infer that it was the arbitration by a third Power of the difference between the two Governments in relation to Central America.

It appears by the letter of Mr. Buchanan to this Department of February 8, 1856, that, on a recent occasion, Lord Clarendon had stated in the House of Lords that he had offered to refer the whole question to the arbitration of any third Power, and that the offer had been renewed; in consequence of which statement Mr. Buchanan, not being aware that any such offer had been formally made by the British Government, had an interview with the Earl of Clarendon for the purpose of explanation. In that interview, Lord Clarendon stated that the original offer of which he had spoken in the House of Lords referred to expressions he had used in conversation with Mr. Buchanan, at an early stage of the discussion on the subject of Central America, and that what he had said of a repetition of the offer was in allusion to a despatch which he had addressed to Mr. Crampton, the British Minister at Washington, and which Mr. Crampton had communicated to this Department, and he even proceeded to recount the answer which, on that occasion, it was alleged Mr. Crampton had received from me.

In relation to this important matter, as it has since been fully manifested, there was misconception on both sides. In the first place, although the note to Mr. Crampton had been written so far back as the 10th of November, 1855, and in it Mr. Crampton had been expressly “instructed” to communicate it to this Department, he had neglected to do so, and it was not until a late hour in the evening of February 27, 1856, and in consequence of discussions in the Senate of the United States on the subject, that Mr. Crampton executed his instructions in this respect, and made communication of Lord Clarendon's note of the previous November.

In the second place, it had not been understood, either by Mr. Buchanan or by his Government, that the suggestions of arbitration which Lord Clarendon had made in conversation with Mr. Buchanan were intended by the former as a formal proposition to that effect on the part of Her Majesty's Government. If it had been so understood, the proposition would have received at once the respectful consideration of the President.

It would be superfluous now to dwell on the regret which the President entertains that a proposition of this nature, which Her Majesty's Government intended as a formal one, was not presented at the commencement, in such a shape as to have attracted to, and fixed upon it, the attention of this Government.

The President has never ceased to be sincerely solicitous to preserve unimpaired the friendly relations of the two countries, and in that spirit, passing over all which there is of apparent informality in the offer of the British Government,

and assuming the late communication by Mr. Crampton of Lord Clarendon's note of the 10th of November as a definite proposition, he instructs me to make the present response to that proposition.

At the very threshold is the question, what it is which shall be submitted to arbitration? Lord Clarendon, in his letter to Mr. Crampton of the 10th of November, seems to assume that the difference between the two countries is merely of the *interpretation* of the Convention of April 19, 1850; but that is not so understood by this Government.

If, indeed, it should be determined in any way that the American construction of that Treaty is correct, which is, that whatever may have been the state of things previous to its date, yet, after that, neither the United States nor Great Britain is to hold any possessions in Central America; that, when the two Governments agreed that "neither will ever occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America," the stipulation comprehends, as to the acts enumerated, prohibition of their continuance as well as their initiation, without which there could be no effective neutralization of the American isthmus; if, I say, such were the agreed or settled interpretation of the Treaty, then, indeed, such determination would conclude all existing difference, and settle it in accordance with the views entertained by the United States.

But, on the other hand, it is not easy to see how the adverse construction, if it were adopted by an arbiter, could terminate the difference. Lord Clarendon conceives that the Treaty "was merely prospective in its operation." So it undoubtedly was in one sense—that is, its engagements only took effect at the time of its execution, and did but apply to all future time.

But when he goes on to infer that the Treaty "did not in any way interfere with the state of things existing at the time of its conclusion," he not only assumes a consequence which does not flow from the premises, but he also assumes a state of facts which is controverted by this Government, and the determination of which cannot derive the least aid from the interpretation which he claims for the Convention.

The Earl of Clarendon here assumes, without distinctly asserting it, that, at the date of the Treaty, Great Britain had "possessions" in Central America. The existence of such possessions, or, as he otherwise expresses it, the assumed fact of there being "portions of territory occupied" by Great Britain in Central America, would appear to be what he more than once speaks of as "the state of things existing at the time of its conclusion." But this Government does not understand that, at the date of the Treaty, Great Britain had any possessions or occupied any territory in Central America, unless the British establishment at the Belize, with its dependencies, as the same are defined by her Treaties with Spain, are to be considered as British possessions or territory in Central America. That is the only possible construction of the declarations exchanged between the then Secretary of State, Mr. Clayton, and the British Minister, Sir Henry Bulwer, at the time of exchanging the ratifications of the Convention.

Independently of that cogent consideration, this Government supposes that, as a matter of mere fact, "the state of things existing" in this respect at the time of the conclusion of the Convention was a thing of indisputable notoriety. I will not do Her Majesty's Government the injustice of presuming that, when the Earl of Clarendon speaks of "possessions" of Great Britain in that quarter, or of "portions of territory occupied by it," he intends to be understood as meaning any thing but *rightful* possessions and *rightful* occupation—that is, possessions and occupation based upon the principles and conformed to the public law which govern the international relations of the Christian States of Europe and America.

Had Great Britain at that time any such possessions or occupation in Central America? If so, it must have consisted either in her relation to the Mosquito Indians, or to the Belize, or to the Bay Islands.

Firstly. As to the Mosquito coast, it is not understood that Great Britain now lays claim to any "possessions" or any "territory" there. All she is supposed to claim is the right to "*protect*" the Mosquito Indians. It cannot be alleged by her that those Indians constitute, or are competent to constitute, an independent State, admissible as such into the family of sovereign Powers. Nor is it pretended by Great Britain that in the name or on behalf of those Indians she herself can, without contravention of the Treaty, assume or exercise political

sovereignty in any part of the Mosquito coast. Her Majesty's Government considers itself under obligations of honour to protect the persons of those Indians, nothing more, and declares that it is ready and desirous to be relieved of that duty in any manner which shall honourably assure the future condition of those Indians. Without entering here into discussion of the question whether the convictions of duty thus entertained by the British Government are well or ill-founded, it seems sufficient to say that there is nothing in that branch of the subject which merits the solemnity of an arbitration by some third Power, or which ought to be regarded as incapable of being settled at any moment by direct intercourse between the respective Governments of Great Britain and the United States.

Nor is it apprehended that Her Majesty's Government is disposed to claim possession, either in her own name directly, or in that of the Mosquito Protectorate, of the port of San Juan de Nicaragua. It cannot but be admitted that that port was an old possession of Spain, her right to which was as indisputable as to Vera Cruz or Panamá; that she had a port of entry and a fort, at or near that place, so long as she retained the sovereignty of Central America; and that then her rights of sovereignty there, and of territorial possession, passed to the Republic of Central America. It is true that, at a subsequent period, and shortly before the date of the Treaty now in question, a British force landed at San Juan, expelled the authorities of the State of Nicaragua which then held possession of it, and retained it for a while, as against that State, in the name of the Mosquito Indians. It is true Great Britain afterwards relinquished the place to the so-called people of Greytown, but the original taking of it was her act. That is, she, in the words of Lord Clarendon, placed "a people under her protection in possession" of San Juan. A protectorship so exercised, and in the name of such persons as the Mosquito Indians, would, it is plain, amount to practical sovereignty. If admissible, under the name of Protectorship, for one of the Contracting Parties to the Convention, it would be equally so for the other; and the United States might be impelled, for controlling reasons, to undertake a counter Protectorship of Indians, or other persons in Central America. It is not supposed that Great Britain desires to enter into any such line of policy of conflicting Protectorships in that quarter, or contends for any construction of the Treaty leading to such consequences, and, of course, no difficulty between the two Governments is apprehended on this point, any more than in regard to the general relation of the Treaty to the Mosquito Indians.

Secondly. As to the Belize, it being conceded that, in pursuance of the explanations interchanged between Sir Henry Bulwer and Mr. Clayton, Great Britain is not precluded by any stipulation with the United States from continuing to exercise, at that establishment, all the rights which she acquired from Spain, it would seem, also, that there is nothing in that part of the subject which it becomes the two Governments to say to the world that they cannot settle by themselves. For although it is common in English books of geography, and others, to give to the Belize the appellation of British Honduras, still it is too well known to admit of dispute, that the Belize is not, and never was, any part of Honduras; and Her Majesty's Government will not, it is assumed as a matter of course, found on a mere name any pretensions of extended territory in that quarter, to the prejudice of the territorial integrity of the Republic of Honduras.

Finally, there remains the question of the Bay Islands, as to which there is more of controversy, at least in appearance.

It is due to perfect frankness to say, that the act of Her Majesty's Government establishing, so late as the year 1852, and in apparent contradiction to the express letter of the Convention of 1850, a Colony at the Bay Islands, has left a disagreeable impression on the minds of the Government and the people of the United States.

Possessing, as Great Britain does, numerous colonial establishments in all parts of the world, many of them in the West Indies, it has not been readily seen what inducements of interest she can have had to establish a new Colony, under the peculiar circumstances of the time, in the insignificant territory of the Bay Islands.

Nor, on looking back beyond the fact of Her Majesty's warrant establishing the Colony of the Bay Islands, and considering the state of things existing in that quarter at the date of the Convention of 1850, does this Government well

see on what ground it can be maintained that Great Britain, at that time, had possession of the Bay Islands, which could be deemed rightful, either as respects her engagements with the United States, or the territorial sovereignty of the Republic of Honduras.

I do not understand the Earl of Clarendon positively to assert that the Bay Islands are dependencies of the British Settlement at the Belize. He indicates, to be sure, an inclination on the part of the British Government to maintain such a claim, but he concedes, at the same time, that it is a "debateable question."

The President does not permit himself for a moment to entertain the idea that the Earl of Clarendon will insist upon any claim of right in Central America incompatible with the most sacred respect for all stipulations of Treaty, as understood by Her Majesty's Government. Of course, he looks to see what are the rightful sources of British title to the Bay Islands suggested by the Earl of Clarendon. He finds them in the "Statement" from the Foreign Office of May 2, 1854, as communicated to Mr. Buchanan, and by him transmitted to this Department.

Her Majesty's Government admits, in that paper, that Ruatan was claimed and militarily occupied by the former Republic of Central America, as successor to the rights of Spain; but asserts, at the same time, adverse British claim manifested by acts of authority, military and civil, and by actual possession.

Occasional acts of military authority by the captains of British ships of war, or of civil authority by the Superintendent of the Belize, are insufficient, it is obvious, to determine a claim of title as against the counter-claim of the Republic of Central America or the State of Honduras. No relinquishment of title by the latter is alleged, except in certain declarations reported to have been made by the Central American Commandant of Truxillo, who, whatever he may have said, could have no power to cede away the territory of Honduras.

The occupation of Ruatan by British subjects, as its origin and character are described in the "Statement," present none of the conditions of rightful possession. Its language on that point is: "Ruatan has been of late years, without any instigation on the part of Her Majesty's Government, spontaneously occupied by British subjects." It is not presumable that the spontaneous occupation of Ruatan by British subjects, without instigation on the part of Her Majesty's Government, that is, an act of mere invasion by unauthorized private persons, will be perseveringly insisted upon by the Earl of Clarendon as the foundation of claim by Great Britain to the sovereignty or even the rightful possession of the Bay Islands.

It cannot have escaped the attention of Her Majesty's Government that the political condition of the Belize, as fixed by Treaties, is not itself one of territorial sovereignty, and therefore Great Britain never could have acquired in right of the Belize, and as assumed dependencies thereof, the territorial sovereignty of the Bay Islands.

In a word, this Government believes that the Bay Islands belong to the State of Honduras, and that, therefore, the occupation of them, and still more their colonization by Great Britain, are contrary to the tenour of her Treaty with the United States as being the occupation and colonization of a part of Central America.

But the British Government thinks differently, and upon the question whether the Bay Islands are subject to occupation and colonization by Great Britain, notwithstanding her Treaty with the United States, the two Governments are at issue.

Upon this retrospect of the several points of difference between the two Governments, the President is not able to perceive that any useful result would ensue to either, from calling on a third Power to say whether the Convention is or is not prospective in its operation, in the sense of that idea as expressed by Her Majesty's Government; for, if that question should by any possibility happen to be resolved in favour of Great Britain, all the substantial points of difference between the two countries would remain untouched, as being wholly independent of that question of construction. The dispute would still exist as to what rightful possessions, at the date of the Convention, Great Britain actually had in Central America.

And if it is now contended by the British Government that, in the name of the Mosquito Indians, Great Britain may take, with military force, and hold, San Juan de Nicaragua, or any other point in Central America, such a pretension would be so totally irreconcilable with all idea of the independence or neutrality of the isthmus, as to render the Convention worse than nugatory to the United States. Instead of submitting to arbitration a pretension involving such consequences, or in any other way consenting to restore effect to the Treaty with such possible construction, it would, in the judgment of the President, be his duty to propose its annulment, so as to release the United States from obligations not attended by any benefits, and which obligations, thus unattended, the United States did not intentionally incur; they having entered into the Treaty only upon the supposition that absolute reciprocity of restriction was incurred by Great Britain.

I repeat, if the Treaty could, by any possibility whatever, have the construction of leaving Great Britain in the possession or military control of the Atlantic coast of Central America, in the name of the Mosquito Indians, and with powers to colonize insular positions commanding it, on the ground of their having been "spontaneously occupied by British subjects," while the United States are restrained from all such rights of control or acquisition, that, in the estimation of the President, would be to deprive the Treaty of moral force, both because it would thus cease to have reciprocal effect, and because the United States did not intentionally enter into any such engagement; and if such were a possible construction of the letter of the Treaty, it would be incumbent on the President to consider whether it would not then become the duty of the United States to seek for the most honourable means of being discharged from such obligations, and render themselves perfectly free to re-establish their proper relation as an American Power, to the transit routes of the American isthmus and the general independence of America.

In fine, the President cannot consent to any act which implies the existence of possible doubt on this point. The Convention of 1850, construed in the sense above supposed, would not be the Treaty into which the United States entered. Nor can he do anything which could be taken to admit, either directly or impliedly, that there is a question in his mind relative to the true construction of that Convention. And he feels bound to take care that, in entertaining the present proposition of arbitration, he shall not be understood as actuated by the slightest feeling of distrust regarding the Treaty rights of the United States.

But the President is not prepared to say that some of the questions of fact, concerning which the two Governments differ, may not be conveniently determined by arbitration or by some analogous method.

Of this class of objects of inquiry is the question, What are the rightful limits of the establishment at the Belize on the side of the State of Honduras? the question whether the Bay Islands do or not belong to that Republic? and the question what extent of country is embraced in the term "Mosquito coast," or is in the actual occupancy of the Mosquito Indians, considered as Indians, and with such territorial rights only as that description of persons are entitled to claim, according to the established public law of Great Britain, of the United States, and of Spain, or of the independent States which have succeeded Spain in America? remembering that no power exists, on the part of Great Britain and the United States, to dispose of the sovereign rights of Nicaragua, or any other State of Central America.

All these questions of political geography regard, in the first instance, the sovereignty and jurisdiction of the independent States of Central America. Great Britain and the United States have no pretension thus to intervene, except for the purpose of defining their own mutual obligations, arising out of the engagements they have contracted in order to assure, so far as they are concerned, the neutrality and the independence of the American isthmus. Regarded only as collateral considerations, affecting the construction of the Treaty between the United States and Great Britain, they are questions which, if not determinable by agreement of the two Governments themselves, the President would not decline to refer to arbitration.

He is aware of many practical obstacles to the adjustment of any international difference of this nature by arbitration, of which difficulties both Great Britain and the United States had experience, in their attempt to settle, by such

means, a previous controversy on the subject of the boundary between the United States and the British provinces in North America.

The President does not doubt that any one of the Powers of Europe which should consent to undertake the task of such an arbitration as is now proposed, would perform the duty with perfect impartiality ; but to apply to any Power to do this, would be to ask of it an act which, if granted by it, would add to its own domestic duties and labours the burden of settling complicated differences of other Governments. He would greatly prefer that, in a controversy like the present, turning on points of political geography, the matter should be referred to some one or more of those eminent men of science who do honour to the intellect of Europe and America, and who, with previous consent of their respective Governments, might well undertake the task of determining such a question, to the acceptance as well of Her Majesty's Government as of the United States.

You are instructed, therefore, to enter into communication with Her Majesty's Principal Secretary for Foreign Affairs, in relation to Central America, in order to ascertain, in the first place, whether existing differences cannot be promptly terminated by direct negotiation, and if they cannot, then to discuss the conditions of arbitration of those points of difference as to which alone this method of settlement seems requisite or applicable ; it being assumed that the other points of difference would, after that, yield, as of course, to conference between the Earl of Clarendon and yourself, conducted in the spirit of cordiality and frankness which belongs to your personal relations, and which is dictated by the true interests both of the United States and of Great Britain.

I am, &c.

George M. Dallas, Esq.,
&c. &c. &c.

(Signed) W. L. MARCY.

No. 2.

The Earl of Clarendon to Mr. Dallas.

Sir,

Foreign Office, June 26, 1856.

THE despatch of the Secretary of State of the United States dated the 24th ultimo, a copy of which was placed by you in my hands on the 11th instant, on the subject of the difference of opinion between the British Government and that of the United States, regarding the construction and effect of the Convention of April 19, 1850, and the subject of Central America generally, has received the attentive consideration of Her Majesty's Government.

Before I proceed to communicate to you the views of Her Majesty's Government, in reply to this despatch, I will beg leave to remark, in reference to Mr. Marcy's observation that direct communication upon the main subject had for some time ceased between Mr. Buchanan and myself, that such communication had ceased because it appeared to Her Majesty's Government that further correspondence was not likely to lead to a settlement of the question at issue. That question turned upon the interpretation of the Treaty of 1850, respecting which Her Majesty's Government learnt for the first time, from Mr. Buchanan, that a view had been taken by the present Government of the United States different from that of the preceding Government. The Treaty arose out of the various projects which had been started for commercial communications across Central America, between the Atlantic and the Pacific, and especially had reference to the scheme of a Ship-canal by the River St. John and the Lake Nicaragua. The main object of the Treaty was to provide a security that such lines of commercial communication, through whatever part of Central America they might pass, should be free for the use of all nations, and should not fall under the exclusive control of any Power.

These objects and purposes are clearly explained and stated in the 1st Article, which is as follows :—

“The Governments of Great Britain and the United States hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said Ship-canal ; agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonise, or assume, or exercise any dominion over

Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America ; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have, to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonising Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, or of assuming or exercising dominion over the same. Nor will Great Britain or the United States take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any State or Government through whose territory the said Canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the subjects or citizens of the one, any rights or advantages in regard to commerce or navigation through the said Canal, which shall not be offered, on the same terms, to the subjects or citizens of the other."

Her Majesty's Government deemed that the plain and unquestionable interpretation of this Article was, that each Government was prohibited from doing what the words of the Article explicitly declared that neither Government should thereafter do ; but that both Governments retained the rights which they had previously enjoyed, where those rights were not expressly limited or abandoned.

With regard especially to the protection which, for a long course of time, the British Government has afforded to the Mosquito Indians, this Article, so far from requiring that protection to cease, acknowledges its existence, and contemplates its continuance, for the Article says that neither party will "make use of any protection which it affords, or may afford, to any State or people, for the purposes of erecting or maintaining any fortifications, or of occupying fortifying, or colonizing, the countries therein specified." The Treaty, therefore, does not require existing protection to cease, but only forbids using such protection for certain specified purposes.

I repeatedly informed Mr. Buchanan that it was the wish of Her Majesty's Government to withdraw from the Protectorate of Mosquito, provided they could do so with honour, securing adequate provision for the King and the Indians of that country ; that Ruatan was a possession of Her Majesty's Crown ; and that, as Her Majesty's Government could not consent to abandon the Protectorate of Mosquito, or to give up the Island of Ruatan, merely in pursuance of an interpretation given by the Government of the United States to a Treaty, which interpretation Her Majesty's Government did not admit, the most usual, as well as the most friendly, course to pursue, was to refer the meaning of the Treaty to the decision of a third Power.

This offer was made by me to Mr. Buchanan by the direction of Her Majesty's Government ; it was several times renewed and discussed between us. Mr. Crampton ought undoubtedly, according to his instructions, to have communicated to Mr. Marcy, at the time when he received it, my despatch of the 10th of November, giving an account of my conversations with Mr. Buchanan ; but his not having done so was of little consequence, as Mr. Buchanan had often assured me that everything which had passed between us had been duly reported to his Government. I am therefore at a loss to understand how it happened that the President should, as stated by Mr. Marcy, have been induced only by certain collateral incidents to infer that arbitration by a third Power of the difference between the two Governments in relation to Central America, had been proposed by Her Majesty's Government.

A misconception has however taken place, which is to be regretted, on account of the delay which it has occasioned ; but this has been rendered comparatively unimportant by the despatch of Mr. Marcy, and the course of proceeding which he now proposes for the adoption of the two Governments. Her Majesty's Government being as solicitous as the President to preserve unimpaired the friendly relations of the two countries, are prepared to enter into negotiations on these matters, with a sincere desire to bring them to a speedy and satisfactory conclusion.

Mr. Marcy is correct when he states that Great Britain lays no claim to any possessions or territory on the Mosquito Coast, and Her Majesty's Government consider now, as they always have considered, that the future condition of the Mosquito Indians, for which Her Majesty's Government are bound in honour to provide, might be assured by direct negotiation.

It is not contended, and never has been contended, that the British Govern-

ment, consistently with the stipulations of the Treaty of 1850, could, in the name of the Mosquito Indians, "take with military force, and hold, San Juan de Nicaragua, or any other point in Central America;" and Her Majesty's Government agree with Mr. Marcy, that such a proceeding would be irreconcilable with the independence and neutrality of the Isthmus, and would render the Treaty nugatory to the United States: but no such pretension has ever been advanced, and no such proceeding has been contemplated.

With respect to the district of Belize, Her Majesty's Government consider that the only question to be determined as regards Central America, is that of the boundary between that country and the British possessions; and in the settlement of that question, no insurmountable difficulty need be anticipated.

With respect to Ruatan and the other Bay Islands, these, at different periods, have been held by Great Britain as well as by Spain, and, having been again occupied by British settlers, formal possession was taken of Ruatan in 1839 by Great Britain, which has since been uninterruptedly maintained. The population increased fast, and magistrates were, from time to time, appointed by the Superintendent of Belize until 1852, when these Islands received a regular form of Colonial Government solely for the purpose of their better internal administration; but Great Britain did not thereby acquire any territorial rights that she did not previously possess.

The Government of the United States, however, maintain that, even supposing the Clayton-Bulwer Treaty were only prospective in its operation, these Islands were no part of the British dominions earlier than 1852.

If the differences between the two Governments on this subject cannot be arranged by direct negotiation, there seems no reason why they might not form the matter of a reference to a third Power.

Her Majesty's Government have learned with satisfaction that you are instructed to enter into communication with me in respect to Central America, in order to ascertain, in the first place, whether existing differences cannot be promptly terminated by direct negotiation, and, if they cannot be so settled, then to discuss the conditions of arbitration on those points of difference as to which this method of settlement may be requisite or applicable.

This is the course which Her Majesty's Government has throughout been willing to adopt; and I have accordingly the honour to inform you that I am prepared to enter into the proposed communication, and I trust that our conferences will be conducted in that spirit of cordiality and frankness which, as Mr. Marcy justly observes, is dictated by the true interests of Great Britain and the United States.

I am, &c.
(Signed) CLARENDON.

FURTHER CORRESPONDENCE with the United States
respecting Central America.

*Presented to both Houses of Parliament by Com-
mand of Her Majesty. 1856.*

LONDON :

PRINTED BY HARRISON AND SONS

CORRESPONDENCE

WITH THE LATE

MR. WALLERSTEIN,

CONSUL-GENERAL FOR GUATEMALA AND
COSTA RICA.

Presented to both Houses of Parliament by Command of Her Majesty.
1856.

LONDON:

PRINTED BY HARRISON AND SONS.

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Correspondence with the late Mr. Wallerstein, Consul-
General for Guatemala and Costa Rica.

No. 1.

Mr. Wallerstein to the Earl of Clarendon.—(Received December 27.)

My Lord, *Consulate-General of Guatemala,
4, Adams Court, Old Broad Street, December 26, 1854.*

I LATELY made free to address Her Majesty's Board of Ordnance for the purpose of obtaining permission to purchase, from Her Majesty's stores, some pieces of artillery for the service of the Guatemala Government, and, in reply, that Honourable Board refers me to your Lordship.

I therefore beg leave to hand to your Lordship a copy of my letter to the Board of Ordnance, with the respectful request that your Lordship will be pleased to authorize the officers of the said department to supply me with the articles I have solicited from them, should such not be incompatible with the exigencies of Her Majesty's service.

I have, &c.
(Signed) E. WALLERSTEIN.

Inclosure in No. 1.

Mr. Wallerstein to Sir Hew D. Ross.

Sir, *Consulate-General of Guatemala,
4, Adams Court, December 9, 1854.*

THE courtesy and ready attention which I received at the hands of the Honourable Board of Ordnance when, on a late occasion, I applied to them for certain pieces of artillery, by order of the Costa Rica Government, encourages me to address myself to the Honourable Board with a similar object in the interest of the Republic of Guatemala.

The Government of the said Republic have requested me to forward them, at the earliest opportunity, two brass howitzers, calibre 4 $\frac{2}{5}$ and weighing about 250 lbs., which I believe exist in Her Majesty's stores, and I should feel extremely obliged if the Honourable Board would allow me to purchase them, should the exigencies of the present moment not be an obstacle to a favourable admission of my request.

On the part of Her Majesty's Government, I make free to think that no other than a favourable consideration would be given to it in consequence of the friendly relations existing between this country and the Republic of Guatemala.

I have, &c.
(Signed) E. WALLERSTEIN.

No. 2.

Mr. Hammond to Mr. Wallerstein.

Sir,

Foreign Office, December 29, 1854.

I AM directed by the Earl of Clarendon to acknowledge the receipt of your letter of the 26th instant, inclosing a copy of the application which you had addressed to the Board of Ordnance for permission to purchase certain pieces of artillery for the use of the Guatemala Government, and stating that you had been referred by the Ordnance Office to this Department; and I am to acquaint you, in reply, that Lord Clarendon has caused the Board of Ordnance to be informed that there exists no objection on the part of Her Majesty's Government to a compliance with your request.

I have, &c.
(Signed) E. HAMMOND.

No. 3.

Mr. Wallerstein to the Earl of Clarendon.—(Received December 27.)

My Lord, *Consulate-General of Costa Rica,
2, Warwick Crescent, Harrow Road, December 22, 1855.*

I SHOULD not have taken the liberty of addressing your Lordship upon the subject of this letter, if I had conceived that the position in which Central America now stands could be a matter of indifference to the Government of Great Britain; or that in so doing I was not representing and fulfilling the wishes, not to say the commands, of the Government of Costa Rica, under which I have the honour to serve.

It will not have escaped the foresight of your Lordship, that the isthmus which unites the two Americas, and separates the two oceans, is destined, in the course of a short period, to be one of the most important parts of territory in the universe. The course of human industry and improvement; the extension of the commerce with China, and the great change which may be expected in that Empire; the discovery of gold in California and in Australia; and the rapid increase of the population in those countries; all combine to show that every port and position in Central America will, ere long, be an object of superior importance to those States which have an extended commerce to sustain and promote, and which must, in the ordinary course of things, more or less regulate the destinies of the world.

Great Britain, with her vast and distant possessions in the Pacific, is perhaps more interested than any other State, in the integrity of the country to which I refer, and whose importance to her will soon be little, if at all, inferior to that of Turkey, which she now so anxiously upholds, both in a political as well as a commercial point of view.

The British Government appear, indeed, to have always been alive to any attempt of any foreign Power to subvert the independence of the Sandwich Islands; whilst it has maintained and guarded with care its small Settlement of Belize: thus testifying that it looks wisely beyond the mere requirement of the moment. The Treaty concluded between Great Britain and the United States of America in 1851, contains a further proof of this foresight and intelligence. That Treaty was hailed by the States of Central America—and by no one of them more than by Costa Rica—as a security for their independence, and an encouragement for that peaceful industry which they had begun to cultivate. The State of Nicaragua alone, which had long been disturbed by foreign counsels and intestine struggles, formed a sad exception in this respect; but it has already discovered its mistaken policy, and is now paying for it: its dissensions

having had the misfortune to introduce into the country a band of adventurers, who have usurped the power and authority of the Government of that Republic.

This band, foreigners in the country by birth, habits, and feelings, and evidently actuated by projects of plunder, headed by a citizen of the United States, of the name of Walker (who had just been repulsed in a daring filibustering attempt upon the Mexican Province of Sonora), are, *bonâ fide*, now all that exists of a Government of Nicaragua; and it is greatly to be apprehended that the consequence of this usurpation of the Government of Nicaragua will be, that questions of territory which have been in dispute between Costa Rica and Nicaragua will be again revived, and hostilely pursued, in order to follow up the designs of this band. The possession of one of the Central American States by these adventurers will, therefore, in all probability, be speedily followed by an aggression upon another of them.

Concurrent with these lawless proceedings, another adventurer, of the same class as Colonel Walker—a Colonel Kinney—has installed himself in authority at San Juan del Norte (Greytown), and has declared himself the master and coloniser of an extensive tract of country, which has belonged from time immemorial to Costa Rica, under the pretext that he, a citizen of the United States of North America, has purchased a grant of land, said to have been made to a person named Shepherd, by the King of Mosquito, although the Government of the United States has always denied the existence and authority of the King of Mosquito.

It is obvious that every species of pretext is made available by these several parties, who are acting in concert, for the purposes of spoliation, and the consequences of which the Government of Costa Rica has the greater cause to fear, because, as it has cautiously abstained from such appeals to the Government and people of the United States, as have been made by some of the Republics of Central America, it has been regarded with more or less hostile feeling by the United States' Government and people, and has been accused of being partially disposed towards the Government and interest of Great Britain.

In this predicament Costa Rica has performed its duty to itself; it has taken those precautions which were in its power, and it can rely upon the patriotism and fidelity of its citizens; it feels secure that, in its mountain-fastnesses at least, it will be able to repel any invader, but its sea-coast is exposed to marauding expeditions, which may at any time be expected, and for the protection of those coasts it can oppose no adequate naval resistance.

It may be said, my Lord, that when a State is weak it must expect to have to submit to its destiny, and to be exposed to the attacks of more powerful States, who sometimes substitute might for right. Permit me, however, to observe to your Lordship, that when one State makes war upon another, it does so in the face of the world; a certain responsibility attaches to its character; it gives some reason for its acts, and some warning of what it is about to do: but a band of adventurers, acting under no Government, and under no recognised flag; having no character to sustain; seeking for no other pretext for an attack than the defenceless state of the object of it, and giving no warning of the quarter against which the aggression is intended; such a band of adventurers is not merely the enemy of that nation against which it directs its lawless attempts—it is the enemy of all nations, because its violence is opposed to every principle of public law. May I be allowed to add, that the pirate is not pursued and destroyed by the State alone whose vessels and property he has plundered; he is treated by all States as the common enemy, and is punished by any one, for an outrage he may have committed upon any other State; and that if this be the admitted rule with respect to pirates by sea, the same rule may justly be applied to bands of adventurers who commit lawless aggressions by land.

It is matter of public notoriety, and therefore a fact well known to your Lordship, that vessels are fitted out, and armed adventurers collected in the ports of the United States, for expeditions against countries and territories in the same hemisphere with which the United States is at war; that all countries and territories in the neighbourhood of that Republic, which are not sufficiently powerful to be prepared at all times to offer any effectual resistance against invasion, are therefore kept in a constant state of apprehension; that the contemplated blow

may be struck at Cuba, Mexico, Costa Rica, Brazil, and other localities ; and that the Government of the United States, from the coast of which country these adventurers sail, does not recognise their acts, or has not the power or inclination to control them. Against such a state of things, so inimical to the very first principles of territorial integrity and colonization, may I not venture, in the name of my Government, which is imminently exposed to the danger thus threatened, to make an earnest appeal to the Government that represents one of the most powerful and civilized nations of the world ? May I not venture to solicit that Great Britain shall adopt effectual measures, founded upon some general international principle, which may extend the countenance and protection of the powerful allies in Europe—more particularly of the great maritime States—to youthful and comparatively weak countries and territories, against the system of unprincipled aggression, which is calculated to retard, if not to ruin, their career as civilized nations, and has become intolerable.

But that to which I am more especially directed to solicit the attention of the British Government, is the fact that the port of Punta Arenas, on the Pacific—a place of much and increasing traffic, and which contains at all times a considerable amount of British merchandise and shipping—is now exposed to great dangers, and requires, if Great Britain shall recognise the gravity and urgency of the present crisis in the affairs of Costa Rica, its immediate and decisive intervention.

Your Lordship will, I trust, pardon me for this long intrusion, considering that I am the advocate and representative of a small but enlightened and enterprising State, whose relations of friendship and commerce are intimately connected with those of Great Britain, by the Treaty of Reciprocity of 1849, and now mainly, if not entirely, rests upon the sympathy and support which it may receive from the British Government.

I have, &c.
(Signed) E. WALLERSTEIN.

No. 4.

Mr. Wallerstein to the Earl of Clarendon.—(Received December 29.)

My Lord, *Consulate-General of Costa Rica,
2, Warwick Crescent, Harrow Road, December 29, 1855.*

REFERRING to the letter which I had the honour to address to your Lordship on the 22nd instant, relative to the existing urgent state of affairs in Costa Rica, I have now the honour to forward to your Lordship a letter which I received from the Minister of Foreign Affairs of Costa Rica addressed to your Lordship upon the same important subject.

I have, &c.
(Signed) E. WALLERSTEIN.

Inclosure in No. 4.

Mr. Calvo to the Earl of Clarendon.

Milord, *Palacio Nacional, San José, Novembre 8 de 1855.*

NO son desconocidos de VS. ni de las naciones Europeas, la dislocacion de los pueblos de la América Central desde el memorable dia en que proclamaron su independencia ; las revoluciones que los han devorado ; el perpetuo vaiven de sus Gobiernos ; la excéntrica oscilacion de su política ; y el estado de aniquilamiento, de descrédito é impotencia á que los han reducido tantos errores y guerras fratricidas.

La América Central ha obtenido el triste privilegio de llamar la atencion del

mundo civilizado, ya que no por su ilustracion ni por sus glorias, por sus luchas sangrientas, su desunion é infortunios.

Pocos años ha que parecia empezar á serenarse tan insoportable situacion ; los desfallecidos pueblos clamaban por paz, y los nuevos Gobiernos procuraban dársela, al mismo tiempo que adquirian una estabilidad harto precaria. Costa Rica, lejos del foco de tantos escandalosos herrores ; abundante en riquezas naturales ; con una muy pequeña, pero homogénea, concentrada, pacífica y laboriosa poblacion ; separada de las demás secciones de la América Central, por su ventajosa posicion geográfica, y desde el principio de la emancipacion, estraña á la azarosa política de sus hermanas, por su aislamiento, imparcialidad y la cordura de sus hijos, ha logrado subsistir progresando modestamente, no indiferente ni impasible, pero sí libre de esas convulsiones agonizantes que auguran cada vez mas la completa ruina de los Estados Centro-Américanos.

Un nuevo peligro surge, un nuevo peligro amenaza á todos, y mi Gobierno seria muy culpable sino se apresurará á conjurar el mal en cuanto está al alcance de su poder, prevision y patriotismo.

Notória es la desoladora guerra civil que, unida al azote de una mortífera epidemia, ha quintado las poblaciones del vecino Estado de Nicaragua ; su revolucion alentada y protegida por él de Honduras, que á su vez se halla hoy envuelto en una lucha cruenta entre sus propios hijos, y á mas con la República de Guatemala.

No es mi objeto inculpar en lo mas leve á ninguno de sus Gobiernos, solo si es relatar á VS. los fatales acontecimientos que nos rodean en la actualidad.

La obcecacion, el encono y despecho de los partidos que lidiaban en Nicaragua ha conducido á ambos, pero muy mas temerariamente al nombrado democrático, factor de la revolucion actual, cuya ansiada terminacion no se vislumbra, á llamar en su auxilio á una legion de aventureros arrojados de las playas Californienses, que por un golpe atrevido se han apoderado de la Ciudad de Granada el 13 de Octubre, constituyéndose en dueños y árbitros de aquel malhadado pais.

El Señor Ministro de Relaciones Exteriores de Nicaragua, el estimable Don Mateo Mayorga, ha sido barbaramente fusilado por ellos : las familias robadas, heridas, perseguidas, y presas en rehenes de la mas ligera hostilidad que se intente contra los invasores, se ven forzadas á transigir, á humillarse ante una madrilla de filibusteros, disfrazados con el nombre de un partido borrascoso y apoyados por un cortísimo número de hijos apóstatas de la América Central.

Pero no es esto solo: la poderosa Compañía de Tránsito, entre Nueva York y California por el Istmo Centro-Américo, los apadrina y facilita sus buques de vapor para tan criminales empresas. El terror que los aventureros y sus prosélitos han inspirado en Granada, ha obligado á varios Nicaraguenses, ansiosos de salvar á sus amenazadas familias del furor de esos caribes, á ofrecer al audaz caudillo Walker la Presidencia del Estado ; él ha recusado, prefiriendo quedar como General-en-jefe del Ejército á la cabeza de sus secuaces armados, para poder disponer á su antojo de la fuerza.

Todo manifiesta que el infatigable Coronel Kinney, proclamado Gobernador de San Juan del Norte (Greytown), llamándose dueño y colonizador de treinta millones de acres de tierra, cuyo origen y situacion aun se ignoran, está de inteligencia con Walker, y que auxiliados con dinero, armas y recursos de toda especie, por una mano tal vez no muy oculta para los que conocen la historia de las Repúblicas Americanas en estos últimos años, serán, á manera que vayan aumentando en número y codicia, una constante amenaza, un peligro inminente para el resto todo de la América Central.

En tal situacion, mi Gobierno ha tomado y toma cuantas medidas juzga eficaces para libertarse de toda agresion, y puede asegurar sin jactancia, que cuenta con la fuerza, la union y el patriotismo de todos los hijos y habitantes de Costa Rica, para rechazar triunfantemente cualquiera expedicion invasora que se atreviera á lanzarse al interior de la República. En el corazon de estas fértiles montañas, defendiendo á sus padres y hermanas, á sus esposas é hijos, tantos y tan caros objetos como la patria encierra para nosotros, todos los Costarricenses sabrian triunfar de sus enemigos ó combatir hasta exhalar el último suspiro.

¿ Pero puede suceder lo mismo en nuestras costas marítimas ? No, Milord.

La pequeñez del pais, sus escasos recursos, no le permiten guarecer bien sus

puertos de uno de estos atentados piráticos que tan facilmente pueden ejecutar los merodeadores acuartelados en el vecino Estado, con los medios y buques de que disponen, atraídos por los depósitos de frutos nacionales, y mercaderías Inglesas y Francesas en su mayoría, que casi siempre existen en nuestro naciente é indefenso Puerto de Punta Arenas, y prevalidos de la poca resistencia que podria oponérseles inmediatamente, no habiendo ni un solo buque de guerra que lo defienda y los persiga en el océano.

Oprobioso es, Milord, que haya un solo pueblo en la América Central que dé cabida á esos aventureros desalmados, enemigos de su reposo y de la independencia de sus hijos, que tan inhumanamente pueden renovar en el Pacífico los nefandos hechos de los antiguos piratas Berberiscos en el Mediterraneo, los de los filibusteros del siglo décimo-sétimo, ó de los que hoy aun roban, incendian y asesinan en el Archipiélago Filipino.

Vergonzoso es tambien que unpuñado de mercenarios sin patria, sin ley ni Dios, inspiren tales recelos á tantos pueblos hermanos que, unidos, podrian repeler á número mucho mayor; pero, tal es el fruto de las discordias pasadas y presentes, tal es el resultado infalible de tanta guerra ominosa, de la falta de armonia entre los Estados, de su insana conducta y carencia de fé, patriotismo y fraternidad.

Ademas ¿puede ser infundado ó cobarde ese temor cuando hemos presenciado ó sabemos los escesos cometidos en Méjico, por esa ralea de gentes, las invasiones de Cuba, las escandalosas escenas del Istmo Neo-Granadino, y, por último, el incalificable bombardeo é incendio de San Juan del Norte?

A vista de tan fatales acontecimientos, su Excelencia el Presidente de la República, siempre vigilante por la suerte y el porvenir de los pueblos que lo elevaron unisonamente á la primer magistratura, trabaja sin cesar por poner en estado de defensa todo el pais, por colocar al abrigo de cualquiera agresion violenta la vida y las propiedades de los nacionales y extrangeros que aqui existen. Pero en medio de la confianza que tan justamente posee en la defensa interior del Estado, teme mucho por la poblacion de Punta Arenas, único puerto importante de la República sobre el Pacífico. Allí existen no pocos intereses nacionales; allí van á embarcarse nuestros frutos: pero tanto muchos de estos, como la mayor parte de las mercaderías importadas que allí se almacenan, son de la propiedad de súbditos de la Gran Bretaña y de Francia.

Unidas tan intima, como noble y gloriosamente, estas dos grandes Potencias, constituidas en defensoras de la justicia contra la arbitrariedad, de los débiles contra la ambicion insaciable de los mas fuertes, ¿no puede y debe aguardarse de ellas que en medio de sus inmensas atenciones en el Oriente, no desoigan la flébil voz de estos pueblos y les tiendan una mano jénerosa?

Su Excelencia el Presidente de la República recuerda siempre con emocion y grata esperanza, las solemnes palabras de los Gobiernos aliados: "La política de la Inglaterra y Francia," han dicho en una memorable ocasion, "la alianza poderosa que hoy las une, no se reducirá tan solo á libertar á la Turquía, sino que se estenderá donde quiera que sea preciso defender el derecho contra la fuerza, la inocencia contra la iniquidad."

Animado con tan noble declaracion, confiado siempre en el poderio y generosidad de ambos pueblos, su Excelencia no duda un instante que los Gobiernos de Su Magestad la Reina de la Gran Bretaña y de Su Magestad el Emperador de los Franceses atiendan á su solicitud respetuosa.

En tal concepto, me ordena que manifieste á VS. cual es la riesgosa situacion que voy relatando, contrayéndome á estos paises, tan importantes para el comercio futuro del orbe, y la esperanza que abraja de que serán protegidos por ambas naciones aliadas.

Un solo buque de guerra Ingles ó Frances, de los estacionados en el Grande Océano, que alternativamente permanecieran por algun tiempo en nuestro magnífico Golfo de Nicoya, tan seguro y saludable, unido á las fuerzas interiores de que puede disponer este Gobierno, serian lo bastante para ahuyentar todo recelo, toda intencion filibustera, y mantener en plena seguridad los propiedades, no tan solo Costarricenses, sino muy particularmente Británicas y Francesas.

¿Será demasiado exigir de esos sabios Gobiernos por nuestra débil parte? No lo creo, Milord.

¿No ha merecido mucho mas una Potencia infinitamente mas poderosa que la jóven y reducida Costa Rica, cual es su ilustre madre la España, para la defensa de Cuba?

Si es cierto que con la península Ibera, sus antillas y otros grandes países, pueden existir mas inmediatos intereses y motivos mas poderosos para una proteccion decidida, ¿no es tambien cierto que en estas Repúblicas, hoy tan débiles é insignificantes, situadas en el centro del globo, debe concentrarse no muy remotamente el comercio universal, y que, de consiguiente, encierran un porvenir de altísima importancia para las naciones marítimas é industriales ?

Si, y en virtud de tantas razones y mil mas que reconocerá sobradamente VS. que mi Gobierno espera una plausible contestacion á esta solicitud, viendo tal vez muy pronto escudadas nuestras costas por los triunfantes pabellones aliados.

Bien quisiera, Milord, mi Gobierno, en cambio del interesante servicio que pede, corresponder de un modo proporcionado á su magnitud, pero ¿que puede ofrecer á esos dos grandes pueblos, en su pequeñez y cortadad de recursos ?

Con todo, cualquier cosa que se le peda, cualquier sacrificio en sus rentas ó relaciones comerciales, compatible con su limitado tesoro, no dudará en otorgarlo al par que su acendrada gratitud, bien persuadido de que no se le puede reclamar nada que no sea digno de la grandeza y magnanimidad de la Gran Bretaña y de la Francia.

Igual nota y peticion dirijo á su Excelencia el Ministro de Negocios Extranjeros de Su Magestad el Emperador de los Franceses, convencido de la solida y fecunda alianza que lo une con él de Su Magestad Británica.

Escuso recomendar á VS. la urgencia vital de esta solicitud respetuosa, cuya respuesta aguardamos con un sumo interés.

Saludando, &c.

(Firmado)

JQ. BERNO. CALVO.

(Translation.)

My Lord,

National Palace, San José, November 8, 1855.

THE disorganization of the nations of Central America since the memorable day in which they proclaimed their independence ; the revolutions which have consumed them ; the perpetual change of their Government ; the eccentric oscillation of their politics ; and the state of annihilation, discredit, and weakness to which they have been reduced by so many errors and fratricidal wars ; are not unknown to your Lordship, nor to the nations of Europe.

Central America has attained to the unhappy privilege of attracting the attention of the civilized world, not by its enlightenment and glory, but by its sanguinary struggles, its dissensions, and its misfortunes.

A few years ago this intolerable state of things seemed about to be tranquillized ; the fainting nations called for peace, and the new Governments endeavoured to obtain it, at the same time that they acquired a somewhat precarious stability. Costa Rica, at a distance from the focus of so many scandalous failures, abounding in physical wealth, with a very small population, yet homogeneous, concentrated, peaceful, and industrious, separated from the other sections of Central America by its fortunate geographical position, and, since the commencement of the emancipation, a stranger to the unhappy policy of its sister States, by its insulation, its freedom from party spirit, and the wisdom of its people, arrived at a state of moderate progress, neither indifferent nor apathetic, but in fact free from those destructive convulsions which every day threaten more and more the complete ruin of the Central American States.

A new danger has arisen, a new danger menaces all, and my Government would be most culpable if it did not hasten to remove the evil, so far as it is within the reach of its power, its foresight, and its patriotism.

Notorious is the desolating civil war which, joined to the scourge of a mortal epidemic, has more than decimated the population of the neighbouring State of Nicaragua, as is also its revolution, fostered and encouraged by that of Honduras, which in its turn is now involved in a bloody struggle between its own population, and with the Republic of Guatemala.

It is not my object to blame in the least any of these Governments ; but merely to lay before your Lordship the fatal events which at this moment encompass us.

The blindness, rancour, and rage of the parties opposed to each other in Nicaragua has brought them both, but much more rashly the one termed the democratic party, the author of the present revolution, of whose wished for termination there is no appearance, to call to their aid a legion of heedless adventurers from California, who by a bold stroke took possession, on the 13th of October, of the city of Granada, constituting themselves the masters and governors of that unhappy country.

The Minister of Foreign Affairs of Nicaragua, the estimable Don Mateo Mayorga, was barbarously shot by them; families were robbed, wounded, persecuted, and, taken as hostages for the smallest hostility shown to the invaders, they have been compelled to make conditions, to humble themselves before a band of freebooters, disguised under the name of a boisterous party, and supported by a very small number of the apostate sons of Central America.

But this is not all: the powerful Transit Company between New York and California by the Isthmus of Central America protects them, and lends its steamers for their criminal enterprises. The terror which these adventurers and their proselytes have spread in Granada has compelled many inhabitants of Nicaragua, anxious to save their families, menaced by the fury of these savages, to offer to the audacious chief Walker the Presidentship of the Republic; this he has refused, choosing rather to remain as General-in-chief of the army at the head of his armed followers, that he may dispose of their force at his pleasure.

Everything shows that the indefatigable Colonel Kinney, who is proclaimed Governor of San Juan del Norte (Greytown), calling himself the owner and colonizer of 30,000,000 acres of land, the origin and situation of which are yet unknown, is agreed with Walker, and that, assisted with money, arms, and means of every kind, by a hand, perhaps, not quite unknown to those who are acquainted with the history of the American Republics in recent times, they will be, in the manner in which they go on increasing in number and cupidity, a constant menace and imminent danger for all the rest of Central America.

In this state of things, my Government has taken, and is taking, such measures as it considers efficacious to avoid all aggression, and it may assert, without boasting, that it depends on the force, the union, and the patriotism of all the natives and inhabitants of Costa Rica to repel triumphantly any invading expedition which should dare to throw itself into the interior of the Republic. In the heart of these fertile mountains, defending their parents and their sisters, their wives and children—objects so many and so dear to us, which our country contains—all the men of Costa Rica would be able to triumph over their enemies, or to fight until they breathed out their last sigh.

But would it be the same with our sea coasts? No, my Lord.

The small size of the country, its few resources, do not allow it to guard its harbours securely from one of those piratical descents which may be so easily executed by the marauders quartered in the neighbouring States, with the means and the ships at their disposal, attracted by the depositories of native productions, and English and French goods, which are almost always found in large quantities in our rising and undefended Harbour of Punta Arenas, and taking advantage of the little resistance which could be immediately opposed to them; there not being a single ship of war which could defend it and follow them into the ocean.

It is shameful, my Lord, that there should be a single nation in Central America influenced by those profligate adventurers, the enemies of their peace and of the independence of their children, who in so inhuman a way renew in the Pacific the horrid acts of the old Barbary pirates in the Mediterranean, those of the buccaneers of the seventeenth century, or of the robbers, incendiaries, and assassins in the Philippine Archipelago.

It is also disgraceful that a handful of mercenaries, without country, law, or God, should excite such fears among so many sister nations, which could, if united, repel a much greater number; but such is the fruit of past and present discord, such is the infallible result of so ominous a war, of the want of harmony among the States, of their insane behaviour, and their want of faith, patriotism, and brotherly feeling.

But can this fear be unfounded or cowardly, when we have seen or heard of the excesses committed in Mexico by this sort of people, the invasion of Cuba, the scandalous scenes of the Isthmus of New Granada, and, lastly, the monstrous bombardment and burning of San Juan del Norte?

Seeing these fatal events, his Excellency the President of the Republic, always watchful over the condition and the prospects of the nation which unanimously elevated him to the Chief Magistrature, is incessantly labouring to put the whole country in a state of defence, so as to shelter the lives and properties of the natives and foreigners who are in it from any violent aggression. But though he is justly confident in his internal defence of the State, he has great fears for the city of Punta Arenas, the only important harbour of the Republic on the Pacific. No small amount of national interests are centred there; our produce is shipped there: but at the same time a great part of this, as of the imported goods which are warehoused there, are the property of the subjects of Great Britain and France.

These two Powers, being as intimately as they are nobly and gloriously united, constituted as the defenders of justice against arbitrary power, of the weak against the insatiable ambition of the stronger; can it, and ought it to be expected from them that, in the midst of their immense labours in the East, they should listen to the feeble voice of these nations, and hold out a generous hand to them?

His Excellency the President of the Republic incessantly recalls with emotion and pleasing hope the solemn words of the allied Governments:—

“The policy of England and France,” said they, on a memorable occasion, “the powerful alliance which now unites them, will not be confined solely to the liberation of Turkey, but will reach wherever it is necessary to defend right against might, or innocence against injustice.”

Animated by this noble declaration, trusting always in the power and generosity of the two nations, his Excellency does not for one moment doubt that the Governments of Her Majesty the Queen of Great Britain and that of His Majesty the Emperor of the French will listen to his respectful request.

In this view, he commands me to make known to your Lordship the perilous situation which I have alluded to, confining myself solely to this country, so important to the future commerce of the world, and the hope that it will be protected by the two allied nations.

One single English or French ship of war, of those stationed in the Pacific, which remain for some time alternately in our magnificent Gulf of Nicoya, which is equally safe and healthy, combined with the internal force at the disposal of this Government, would be sufficient to dispel all fear, and any filibustering attack, and to maintain in full security the property, not only of the people of Costa Rica, but more especially of those of Great Britain and France.

Is this too much to require on our feeble part of those wise Governments? I think not, my Lord.

Has not a Power infinitely stronger than the young and enfeebled Costa Rica—that is to say, her illustrious parent, Spain—has she not been indebted for much more in defending Cuba?

If it is certain that, in the case of the Spanish peninsula, with its islands, and other large countries, there may exist more immediate interests and more powerful motives for a decided protection, is it not also certain that in these Republics, now so feeble and unimportant, situated in the centre of the world, the commerce of the globe must be concentrated at no very remote epoch, and that, consequently, they comprise a future of the highest value for maritime and manufacturing nations?

Yes; and in virtue of so many reasons, and a thousand others which will be abundantly known to your Lordship, my Government hopes for a favourable reply to this request, and that perhaps it may see, very speedily, our coasts defended by the triumphant allied flags.

My Government is very desirous, my Lord, in exchange for the valuable service it asks for, to make a return proportionate to its magnitude; but what, in its littleness and few resources, can it offer to those great nations?

Nevertheless, whatever may be demanded, whatever sacrifices be required in its revenues or commercial relations, compatible with its limited treasury, it will not hesitate to concede them, as well as its deepest gratitude, being assured that nothing will be demanded of it unworthy of the greatness and magnanimity of Great Britain and France.

I address a similar note and request to his Excellency the Minister for Foreign Affairs of His Majesty the Emperor of the French, being convinced of

the solid and productive alliance which unites him with that of Her Britannic Majesty.

I take the liberty to remind your Lordship of the vital urgency of this respectful request, the reply to which we are expecting with the deepest anxiety.

In saluting, &c.

(Signed) JQ. BERNO. CALVO.

No. 5.

Mr. Wallerstein to the Earl of Clarendon.—(Received January 5.)

Consulate-General of Guatemala,

My Lord,

4, Adams Court, Old Broad Street, January 5, 1856.

I BEG leave to inform your Lordship that I have to-day addressed to Her Majesty's Secretary of State for War a request to be permitted to purchase from the Royal Arsenal at Woolwich two brass mortars, for the service of the Guatemala Government; and I respectfully beg your Lordship will be pleased to communicate to Lord Panmure, considering the friendly relations which exist between this country and Guatemala, that there is no obstacle on the part of Her Majesty's Government to a compliance with my request.

I have, &c.

(Signed) E. WALLERSTEIN.

No. 6.

Mr. Wallerstein to the Earl of Clarendon.—(Received January 14.)

Consulate-General of Costa Rica,

My Lord,

2, Warwick Crescent, Harrow Road, January 12, 1856.

IN the letter which I had the honour to address to your Lordship on the 22nd ultimo, and at the interview with which I have since been favoured by your Lordship, I have necessarily dwelt at some length upon the danger with which Central America generally is threatened, and in which every individual State of which it is composed is involved, to the serious prejudice of the tranquillity of both hemispheres and the commercial relations of the world.

I now beg leave to address myself again to your Lordship, with the object of drawing your Lordship's attention more particularly to the dangerous and necessitous condition of Costa Rica, with the interest of which State I am immediately concerned, and to the extent of injury to British interests which must inevitably attend the ruin or waste of property in Costa Rica.

Costa Rica, though resolved and able to defend herself against any invasion by land, may, my Lord, be considered as utterly helpless by sea, and unable, therefore, to make any effectual resistance against a sudden aggression upon her port in the Pacific. The presence of a single ship of war in front of Punta Arenas would, however, in all probability suffice for the security of that port and for the vast amount of property which it contains, and in which British subjects are most materially concerned, as I hope I shall presently be able to demonstrate to your Lordship.

If your Lordship will be pleased to refer to the correspondence which has passed between Her Majesty's Government and that of the Republic of Costa Rica, you will find that, throughout the period which has followed its independence, Costa Rica, with a foresight in which it would have been well for the other States of Central America to have participated, has shown the greatest attachment and respect towards Great Britain; that it has faithfully fulfilled the engagement which it took upon itself at the time of the dissolution of the Central American Union, to liquidate its portion of the debt due by that Union to British subjects; and that (to say nothing of the Treaty of Commerce which binds the two States) Costa Rica has uniformly expressed and exhibited the most earnest desire that its interests should be closely connected with those of Great Britain—a friendly sentiment that is rapidly strengthening, and which has

been in no small degree influenced by the commercial relations between the two States.

The great increase which has taken place in the quantity of produce raised in Costa Rica has been mainly owing to the employment of British capital; for the steady and peaceful manner in which the internal affairs of Costa Rica have been administered has given confidence, and has induced British merchants to advance large sums for the cultivation of land in that country; and the consequence of this advance of capital has been, that Costa Rica, which not many years since produced only 50 tons of coffee per annum, now exports yearly from 5,000 to 6,000 tons, which quantity comes for the most part to the British dominions.

A large portion of the trade between Great Britain and Costa Rica is carried on in the following manner. The British merchant makes an advance in money or in English manufactured goods to the Costa Rica planters and merchants, to enable them to carry on their mercantile enterprises and speculations, and to cultivate and get in their coffee-crops. The Costa Rica merchant then consigns the coffee to the English merchant, who disposes of it in this country, and pays and benefits himself out of the sale of it.

Your Lordship will perceive that the destruction, therefore, of the coffee-crop, whether on the plantations upon which it is grown (which plantations are, moreover, frequently mortgaged to English merchants) or in the port of Punta Arenas, from whence it is shipped, although it would of course be ruinous to the property of the Costa Rica planters, would, in fact, in nine cases out of ten, be the destruction exclusively of British property; and as a large amount of coffee awaiting the opportunity of shipment, and much English merchandise, is always in deposit at Punta Arenas, the security of that port must be of great consequence to the commerce of Great Britain.

Intimately connected with that commerce is a railway, which is projected by English capitalists between Punta Arenas and the interior of Costa Rica, the materials for the construction of which important undertaking have been very recently shipped from London and Bristol to Punta Arenas. Various other projects for the improvement of the resources of Costa Rica, such as mining colonisations, &c., to be effected by British capital and enterprise, are also in progress.

Should it be desired, I will furnish your Lordship with further details or statements showing the great extent in which the commercial interests of Great Britain and Costa Rica are combined. In the meantime, I venture to hope that the British Government is fully aware of the imminent danger which exists to the security of property in the Costa Rica territory, especially in the port of Punta Arenas, which is completely exposed to a sudden inroad from the lawless band of adventurers who have now possession of the neighbouring territory of Nicaragua; that it will be pleased to consider that the presence of a ship of war, which I have the honour urgently to solicit, in the name of the Government of Costa Rica, is absolutely necessary for the protection of the property in jeopardy; and that your Lordship will be inclined to assure my Government in reply, or to authorise me to assure it, that its request has been favourably received by Her Majesty's Government, and that a British ship of war will be forthwith stationed at Punta Arenas, with such instructions to the Commander of it as the case, and (may I be permitted to add) a sympathy for the people of Costa Rica, may appear to your Lordship to require.

I have, &c.
(Signed) E. WALLERSTEIN.

No. 7.

Mr. Wallerstein to the Earl of Clarendon.—(Received January 14.)

Consulate-General of Costa Rica,
My Lord, 2, Warwick Crescent, Harrow Road, January 12, 1856.

IN the conversation which I had the honour to have with your Lordship, I took the liberty to solicit, on the part of the Government of Costa Rica, that the British Government would be pleased to accommodate it with a small supply of

muskets (say 2,000 in number), for the payment of the value of which, at the earliest practicable period (consistently with the exertions which Costa Rica is now making), I would be prepared to engage on the part of Costa Rica.

These arms are required for the purpose of arming the population for the security of the country against aggression. I should not have addressed this further request to your Lordship, but for the absolute necessity of placing the territory in an adequate attitude of defence; and I have brought it forward in a separate letter, because it partakes of the character of a pecuniary, rather than a political, transaction between the two countries.

A compliance with it would, however, essentially conduce to the above object; and I beg leave to assure your Lordship that this accommodation would be most gratefully acknowledged; and as the Government of Costa Rica is not encumbered by any national debt, it would be accepted upon such terms as Her Majesty's Government might be pleased to dictate.

I have, &c.
(Signed) E. WALLERSTEIN.

No. 8.

Mr. Hammond to Mr. Wallerstein.

Sir,

Foreign Office, January 17, 1856.

I AM directed by the Earl of Clarendon to acquaint you, in reply to your letter of the 5th instant, that instructions have been given by the Secretary of State for War to the Clerk of the Ordnance, to enable you to purchase two brass mortars from the Royal Arsenal at Woolwich, for the use of the Government of Guatemala.

I am, &c.
(Signed) E. HAMMOND.

No. 9.

Mr. Hammond to Mr. Wallerstein.

Sir,

Foreign Office, January 22, 1856.

I AM directed by the Earl of Clarendon to acquaint you, with reference to your letter of the 12th instant, that instructions will be given to the Admiral on the Pacific Station, to cause the coast of Costa Rica to be visited by Her Majesty's cruisers for the protection of British interests.

I am, &c.
(Signed) E. HAMMOND.

No. 10.

Mr. Hammond to Mr. Wallerstein.

Sir,

Foreign Office, January 25, 1856.

WITH reference to my letter of the 17th instant, I am directed by the Earl of Clarendon to acquaint you that his Lordship has been informed by the Secretary of State for War, that the value of the two brass howitzers* furnished to you for the use of the Guatemala Government is 49*l.* 8*s.* 6*d.*, and I am to add that, as soon as you shall have announced to this office your acquiescence on the part of the Guatemala Government in the correctness of this charge, you will be apprized of the manner in which the payment of it should be made.

I have, &c.
(Signed) E. HAMMOND.

* See Nos. 1. and 2.

No. 11.

Mr. Wallerstein to the Earl of Clarendon.—(Received January 30.)

My Lord,

*Consulate-General of Guatemala,
4, Adams Court, January 28, 1856.*

I HAD the honour to receive Mr. Hammond's letter of the 17th instant, stating that your Lordship had directed him to inform me that instructions had been given by Her Majesty's Secretary of State for War, to supply me with two mortars for the service of the Guatemala Government; and I have also received a letter from the Clerk to the Ordnance, apprising me that the value of the mortars is 117l. 17s. 6d., and which sum I am ready to pay on being informed by your Lordship to what particular Department of Her Majesty's Government the money is to be paid.

In the meantime, I take the liberty of requesting your Lordship will be pleased to permit my being likewise supplied with the two iron beds or carriages (new pattern), requisite for the land service of these mortars, and which, to my regret, I forgot to mention in my letter of the 5th instant.

I beg to tender my best thanks for your Lordship's ready compliance with my previous request, and to apologize for that which I make free to address your Lordship on this occasion.

I have, &c.
(Signed) E. WALLERSTEIN.

No. 12.

Mr. Wallerstein to the Earl of Clarendon.—(Received January 30.)

My Lord,

*Consulate-General of Guatemala,
2, Warwick Crescent, Harrow Road, January 28, 1856.*

I HAVE the honour to acknowledge the receipt of Mr. Hammond's letter of the 25th instant, informing me, by direction of your Lordship, that the value of the two brass howitzers furnished to me on a former occasion for the service of the Guatemala Government, is 49l. 8s. 6d.

In reply, I beg to state that I approve of this charge in the name of the Government of Guatemala, and that I am prepared to liquidate the same as soon as your Lordship shall have informed me to what Department the payment is to be made.

I have, &c.
(Signed) E. WALLERSTEIN

No. 13.

Mr. Hammond to Mr. Wallerstein.

Sir,

Foreign Office, February 2, 1856.

I AM directed by the Earl of Clarendon to acknowledge the receipt of your letter of the 28th ultimo, stating that you acquiesce in the charge of 49l. 8s. 6d. made by the War Department for the two brass howitzers with which you have requested to be furnished for the use of the Government of Guatemala; and with reference to your request to be informed to what Department payment for the above articles should be made, I am to acquaint you that Her Majesty's Paymaster-General will be authorized by the War Department to receive the above amount.

I am, &c.
(Signed) E. HAMMOND.

No. 14.

Mr. Hammond to Mr. Wallerstein.

Sir,

Foreign Office, February 2, 1856.

I AM directed by the Earl of Clarendon to acknowledge the receipt of your letter of the 28th ultimo, stating that you will be ready to pay the sum of 117*l.* 17*s.* 6*d.*, which has been charged by the Ordnance Department for the two mortars with which you requested to be furnished for the use of the Government of Guatemala, on being informed to what Department of Her Majesty's Government the above sum should be paid; and I am to acquaint you that Her Majesty's Paymaster-General will be authorized by the War Department to receive the above amount.

I am to add, that Lord Clarendon has forwarded to the War Department your request to be likewise furnished with the two iron beds or carriages (new pattern), requisite for the land service of the said mortars.

I am, &c.
(Signed) E. HAMMOND.

No. 15.

*Mr. Wallerstein to the Earl of Clarendon.—(Received February 6.)**Consulate-General of Costa Rica,*

My Lord,

2, Warwick Crescent, Harrow Road, February 4, 1856.

I HAVE the honour to acknowledge the receipt of Mr. Hammond's letter, in which he informs me, by direction of your Lordship, that instructions will be given to the British Admiral on the Pacific station to cause the coast of Costa Rica to be visited by Her Majesty's cruizers for the protection of British interests.

In acknowledging, with gratitude on the part of the Government of Costa Rica, the receipt of this gratifying compliance with the application which I had the honour to address your Lordship, I cannot but express the hope and expectation which will be entertained by my Government, that the interests of Costa Rica will be included in this protection, interests which, as I have already had the honour to represent to your Lordship, are closely connected with the interests of British subjects in that quarter.

With reference to my former letters, in which it was my duty to draw your Lordship's notice to the designs of the filibusters, from which so much danger is to be apprehended by Costa Rica, in common with the rest of Central America, I cannot omit this opportunity of making known to your Lordship, that intelligence recently forwarded to me, and which (as I find it likewise mentioned in the public press) has, probably, been conveyed to the British Government through other channels, shows that the proceedings of these filibusters, or unlawful aggressors (under whatever denomination they may carry on their projects), have been in effect, if not ostensibly, aided by a ship of war of the United States, stationed in the port of Greytown, and that they are, therefore, directly or indirectly, countenanced in the territory of Nicaragua by the United States' Government.

The policy which actuates that Government in this respect, cannot but be most injurious to the tranquillity and prosperity of those countries more immediately concerned, as well as to the interests of the community at large; and as the but ill-concealed objects of that policy are, annexation to the United States, and the introduction of the system of American slavery to the violated territories, the Government of Costa Rica cannot too earnestly implore the attention of the British Government to the melancholy fate which awaits her, unless the sympathy of Great Britain, on the score of humanity and civilization, can be awakened to the extreme danger of the moment, which can be averted only by some immediate and decisive measure of counteraction.

I have, &c.
(Signed) E. WALLERSTEIN.

No. 16.

Mr. Hammond to Mr. Wallerstein.

Sir,

Foreign Office, February 9, 1856.

I AM directed by the Earl of Clarendon to acquaint you that, having referred to the War Department your letter of the 12th ultimo, requesting that a small supply of arms may be furnished to the Government of Costa Rica, his Lordship has been informed by that Department, in reply, that 2,000 smooth bore muskets (Witton's), which are not so highly finished as the line-pattern musket of 1842, can be supplied for this service at 11. 3s. each, or, if it should be preferred, 2,000 of the line-pattern musket of 1842 can be furnished at 56s. 8d. each.

As soon as Lord Clarendon is informed by you of the species of arms which you decide upon, he will communicate further with the War Department, and request that the arms may be placed at your disposal.

I am, &c.

(Signed) E. HAMMOND.

No. 17.

Mr. Wallerstein to Mr. Hammond.—(Received February 14.)

My dear Sir,

2, Warwick Crescent, Harrow Road, February 12, 1856.

I HAVE been much gratified by the receipt of your letter of the 9th, respecting the muskets, which I shall acknowledge, in due form, with my best thanks. In the mean time, it will be necessary for me to examine the muskets and to discriminate between the two qualities and their merits in point of utility; and I shall be much obliged to you if you will kindly take the trouble to obtain for me the requisite order for that purpose.

I am, &c.

(Signed) E. WALLERSTEIN.

No. 18.

Mr. Hammond to Mr. Wallerstein.

Sir,

Foreign Office, February 20, 1856.

I AM directed by the Earl of Clarendon to inform you, with reference to the request contained in your letter of the 12th instant, that, on your placing yourself in communication with Mr. Monsell, the Clerk of the Ordnance, at the Ordnance Office, Pall Mall, an opportunity will be given you of examining patterns of the two descriptions of muskets referred to in my letter of the 9th of February.

I am, &c.

(Signed) E. HAMMOND.

No. 19.

Mr. Wallerstein to the Earl of Clarendon.—(Received March 28.)

My Lord,

*Consulate-General of Costa Rica,**2, Warwick Crescent, Harrow Road, March 28, 1856.*

REFERRING to the letter which I had the honour to receive from Mr. Hammond on the 9th ultimo, in which, by your Lordship's direction, he was pleased to signify to me your intention to place at my disposal 2,000 muskets, which I had solicited on the part of the Government of Costa Rica,

and for which I have to express my grateful acknowledgment and that of my Government; I now beg leave to acquaint your Lordship that in compliance with a further letter from the Foreign Office, of the 20th following, I placed myself in communication with the Ordnance Department, and was, in consequence thereof, referred (by the War Department) to Lieutenant-Colonel Dixon, Superintendent of the Royal Small Arms Factory at Enfield; at which place I inspected the two descriptions of muskets to which Mr. Hammond refers in his letter of the 9th ultimo.

I afterwards received a letter, of which the inclosed is a copy, from that officer; and subsequently a letter from the War Department, a copy of which I have also the honour to inclose for your Lordship's perusal.

This last letter informs me that Lord Panmure has been so kind as to approve of the proposal of Lieutenant-Colonel Dixon, that 2,000 smooth-bore muskets (not exactly new arms, as Colonel Dixon stated to me) shall be repaired, rifled, and sighted, and presented to me for the Government of Costa Rica on payment of the expense of the alterations; and that his Lordship has further approved of the supply of such ammunition and necessaries as may be required, on payment being made for them on delivery.

With reference to this communication I beg, however, to be permitted to remind your Lordship that I am acting in this matter in the name and on the behalf of my Government; and when I made free to apply to your Lordship for a supply of muskets, I pledged myself that the Government which I am now representing "would pay for them at the earliest practicable period consistently with the exertions which Costa Rica is now making."

I did not, by these expressions, mean to defer the payment to any indefinite period, and I am prepared to engage, on the part of my Government, that the price of these muskets and the expenses attendant upon the alterations, as well as the cost of the ammunition (of which, however, I propose to take only one-fourth part intended by Colonel Dixon), shall be paid by annual instalments, and within any reasonable time that Her Majesty's Government may be pleased to prescribe.

I trust that your Lordship, in concert with the War Department, will be pleased to consent to this arrangement, and that the muskets, after the alterations shall have been made, may be ordered to be delivered to me, with the ammunition, as soon as practicable, without my being called upon to pay any part of the expenses; but that the supply may be accompanied with an account, in order that I may transmit both to the Government of Costa Rica at the same time.

I have, &c.

(Signed) E. WALLERSTEIN.

Inclosure 1 in No. 19.

Lieutenant-Colonel Dixon to Mr. Wallerstein.

Sir,

Royal Small Arms Factory, Enfield, March 4, 1856.

IN compliance with your request, that I should give you my advice upon the question of the description of arm to be selected by you, with the consent of Her Majesty's Government, for service of the Government of Costa Rica, I beg to state as follows:

There are at present a considerable number of smooth-bore muskets in the Tower, not exactly new arms, but which can be repaired, and rifled, and sighted, thus making a most efficient weapon, and giving a great superiority to a small number of troops, over a larger number armed merely with smooth-bores. As, however, the troops under Mr. Walker, against whom you may have to defend yourselves, are probably armed, either wholly or in part, with rifles, I should be wrong in counselling you to select any but rifled arms, and I think Her Majesty's Government would not object to my selecting the required number of smooth-bored muskets; and I could arrange for their being rifled and sighted, which operations, including such repairs as are necessary, would amount to about 16s. each arm.

I should recommend that ammunition, to the extent of 500 rounds each

arm, or 1,000,000 of rounds, be obtained from Her Majesty's stores, and the usual number of percussion caps.

The implements necessary for the above number (2,000) of arms, could, I believe, be supplied to you from store on your demand, and the cost of these articles could be defrayed by you.

It would be advisable for you to obtain permission for me to prepare a few bullet-moulds—say three, and also to contract for a good number of iron cups.

I have, &c.

(Signed) M. H. DIXON.

List of Arms, Stores, &c., recommended to be obtained by M. Wallerstein, Consul General for the Republic of Costa Rica.

	Number.
Arms :—Musket, rifled, pattern 1842	2,000
Implements :—Nipple-wrench, ball-drawer, brace, in the proportion issued with the above arms.	
Muzzle-stoppers	2,050
Bayonet-scabbards	2,000
Spare nipples	500
Ammunition made up, rounds	1,000,000
Caps	250,000
Bullet-moulds and plungers	3
Iron cups	2,000,000
Wood “formers,” for making cartridges ..	100
Trays for holding cartridges while filling ..	20
Filling machine, 3 drams	2
Paper :—Cartridge, of sorts, sufficient for making up 2,000,000 cartridges.	
Grease :—Mixture of tallow and bee's-wax, for dipping ends of cartridges into, 20 kegs.	
Twine, balls of	

(Signed) M. H. DIXON.

Inclosure 2 in No. 19.

Mr. Drewry to Mr. Wallerstein.

Sir,

War Department, Pall Mall, March 18, 1856.

IN reference to the conversation which you have had with Lieutenant-Colonel Dixon, Superintendent of the Royal Small Arms Factory at Enfield, relative to the selection of muskets for service of the Government of Costa Rica, I am directed to acquaint you that Lord Panmure has approved of the proposal of Lieutenant-Colonel Dixon, that 2,000 smooth-bored muskets be repaired, rifled, and sighted, and presented to you for the Government of Costa Rica, on payment of the expenses of the alterations; also of the supply of the ammunition and necessaries, on payment being made for them; and his Lordship has given orders for the same to be carried into effect.

I am, &c.

(Signed) H. R. DREWRY.

No. 20.

Mr. Wallerstein to the Earl of Clarendon.—(Received May 1.)

Consulate-General of Costa Rica,
2, Warwick Crescent, Harrow Road, April 30, 1856.

My Lord,

YOU are aware that I had solicited and obtained from your Lordship, on account of the Government of Costa Rica, 2,000 muskets,* with respect to the payment for which I addressed your Lordship on the 28th March last.

Since this period, General Walker is at war with my Government. General Walker has also declared that the Mosquito coast, under the protection of Great Britain, is annexed by him to the State of Nicaragua.

In the meantime, he is constantly receiving supplies through Greytown, a portion of the Mosquito territory; and the position he is thus enabled to occupy between Costa Rica and Greytown, renders all communication with Costa Rica of extreme difficulty.

I venture to hope that, under these circumstances, I am not presuming too much on the friendly relations which have always existed between my Government and that of Her Majesty, if I venture to call your Lordship's attention to this state of things.

The conduct pursued by General Walker, insulting to Great Britain, by menacing the Power she protects, is also prejudicial to British interests, which are deeply involved, as I have already pointed out to your Lordship, in the tranquillity and prosperity of Costa Rica; and, at all events, it would be some satisfaction and some guide to me, if I were enabled to ascertain, through your Lordship's goodness, the policy which Great Britain is disposed to pursue towards this adventurer, who, denounced by the Government of the State to which he belongs, is nevertheless making war on his own account, and threatening the peace and well-being of the whole Central American continent.

I have, &c.
 (Signed) E. WALLERSTEIN.

* Neither the above-mentioned muskets nor the mortars referred to in No. 5 have yet been issued from Her Majesty's stores.

CORRESPONDENCE with the late Mr. Wallerstein,
Consul-General of Guatemala and Costa Rica.

*Presented to both Houses of Parliament by Com-
mand of Her Majesty. 1856.*

PAPERS

RELATIVE TO

RECRUITING

IN

THE UNITED STATES.

Presented to both Houses of Parliament by Command of Her Majesty.
1856.

LONDON:
PRINTED BY HARRISON AND SONS.

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Papers relative to Recruiting in the United States.

No. 1.

Consul Barclay to the Earl of Clarendon.—(Received January 31, 1855.)

(Extract.)

New York, December 23, 1854.

I HAVE the honour to transmit herewith to your Lordship a copy of a letter which I addressed to Her Majesty's Minister at Washington, containing information concerning the desire which exists here, on the part of a large number of efficient men, of enlisting in Her Majesty's army to serve in the present war.

Inclosure in No. 1.

Consul Barclay to Mr. Crampton.

(Extract.)

New York, December 22, 1854.

I BEG to acquaint you that the sudden and total stagnation of trade and commerce has, within a few weeks past, thrown out of employ thousands of sturdy men in this State, a large proportion of whom are native British subjects. Numerous applications are made to me daily, to know whether I will pay the passages of the applicants to England to enable them to enlist there, and several of them have offered to pledge themselves to take with them hundreds—others, thousands—with the same intention ; and one fine intelligent fellow said that he would guarantee 25,000 men to leave this port as recruits within a month, himself being one, if they had the means of defraying their expenses across the Atlantic, and that, if they cannot be arranged here, he would go to England for the purpose.

I am grieved that the Neutrality Laws prevent any aid being given to these volunteers ; so apt a time will not occur again, for they are at present not earning their daily bread, and are in great solicitude about their increased necessities during the severe season of winter on which we are just entering.

I have replied to the applicants that no pecuniary aid or encouragement could be given, nor any agreement be entered into, to induce them to go and offer themselves ; but that, as recruiting for the army was going on, there could be little doubt that the Government would reimburse the reasonable expense of passage of such as were accepted after the customary examination.

They appear very eager to embark, but I apprehend that the want of an assurance that the expense of passage-money will be refunded to those whose services may be accepted will prevent many from embarking, and the want of means will prevent many more.

It is said that the free disbursement of cash by Russian agents here has roused the patriotism of native British subjects, who, not being apprised of the

existence of the Neutrality Laws and their penalties, suppose that the Government of their mother country cannot be less active in the application of its funds for the public service. Americans also—several surgeons and one commissioned officer of infantry—have offered to serve.

No. 2.

Consul Rowcroft to the Earl of Clarendon.—(Received January 23.)

(Extract.)

Cincinnati, January 5, 1855.

THE passing of the Foreign Enlistment Bill has attracted the notice of persons here, and has given rise to an offer which I think it my duty to communicate without delay.

The offer is this :

1. To convey 500 Germans to Liverpool, there to take service with the British Government.

2. The payment of the conveyance of such 500 to be made after their arrival and enrolment at Liverpool.

3. These 500 to be, for the most part, trained soldiers, and fit for immediate service.

4. Most of them, it is averred, are men who served in the Mexican war.

I have made private inquiries, and have reason to believe that the party making this proposal is a competent person, and I hear nothing unfavourable to his character.

Of course I hear all that is said to me ; but I have made no other reply to this proposal than to request that any communication which the party had to make might be made in writing.

With respect to the animus which may have prompted this offer, I will make the following observation :—Public opinion in this city and State and in the adjacent States, and generally, and I might say universally, throughout the interior, where the true American opinion is best to be gathered, is decidedly favourable to Great Britain in respect to the Russian war. This favourable opinion pervades all classes. I speak only of the interior, as it is my Consular district, leaving those on the sea-board to report according to their information ; but I can confidently affirm that this favourable feeling is prevalent throughout the whole of the United States.

With respect to the remarkable circumstance of 500 Germans being ready to quit this country, and abandon their pursuits, with the high wages accompanying mechanical labour, the reply is, that “they are adventurous men,” and that “they are fond of that sort of life,” &c.

This is all the information which I am able to communicate at the present moment.

I beg to assure your Lordship that no fear need be entertained of my committing myself or the Government.

At present I have only to communicate the proposal which I have described and which I could not help hearing. I hasten to make it known to your Lordship, and I respectfully await your Lordship's instructions in respect to this or any similar offer.

No. 3.

Consul Rowcroft to the Earl of Clarendon.—(Received January 31.)

(Extract.)

Cincinnati, January 12, 1855.

SINCE I had the honour to forward to your Lordship my despatch of the 5th of January of the present year, I have had further communications from the gentleman who made the proposal relative to the Foreign Legion therein mentioned.

His proposal, as I communicated in that despatch, is to convey 500 Germans to Liverpool, there to take service with the British Government.

He now offers to increase this number to 1,000 men, all trained soldiers who have served in Europe or the United States, of ages not more than thirty-five years, practised in the use of the rifle, and fit for immediate service.

Five hundred of these men he would engage to land at Liverpool, or other place appointed, immediately, and 500 more within a month.

He stipulates that they shall be officered by their own countrymen, who will accompany them or meet them at the appointed port of debarkation. He reckons these officers to be about fifteen.

With respect to the remarkable circumstance of so many as 500 Germans being ready to quit this country and their lucrative occupations (for all mechanics here earn from 2 to 3 dollars a-day), it may be observed, that great distress has prevailed for some months past, here and in the surrounding parts, among all classes, in which the employed have severely participated; and that it is here, in the interior, and especially in Cincinnati, that the German emigrants mostly congregate. In this city alone there are more than 40,000 Germans; the neighbouring State of Indiana (westward), and the State of Illinois (the next State westward of Indiana), contain a large number of Germans; and in the city of Louisville, in the neighbouring State of Kentucky (southward), about 130 miles from Cincinnati, many German soldiers, who have served in Europe and in the United States, have fixed their abode; so that this city of Cincinnati has become the central rendezvous of the Germans, and the western and interior States their chosen locations.

I will add, with reference to the Neutrality Laws, that the men thus proposed to be landed at Liverpool are represented to me to be not Americans but Germans.

No. 4.

Consul Mathew to Mr. Hammond.—(Received January 31.)

(Extract.)

Philadelphia, January 15, 1855.

PROPOSALS were some time since made to me, with regard to Scotch and German recruits, from residents in the State of New York; but I felt it right, from various circumstances, that any communication with Her Majesty's Minister or the Foreign Office should come from Her Majesty's Consul at New York.

From time to time a considerable number of men, for sea and land service, have applied to me. I regret that Her Majesty's Minister at Washington has not felt authorised to permit my intervention in their behalf.

No. 5.

Consul Mure to the Earl of Clarendon.—(Received February 2.)

(Extract.)

New Orleans, January 4, 1855.

SEVERAL British subjects, principally Irishmen, have recently applied to me to be returned to England in order that they may join the military and naval service. I have written to Mr. Crampton for instructions on the subject.

No. 6.

Mr. Merivale to Mr. Hammond.—(Received February 2.)

Sir,

Downing Street, February 2, 1855.

I AM directed by Secretary Sir George Grey to transmit, for the information of the Earl of Clarendon, the copy of a despatch from the Governor of Canada forwarding a copy of a communication from a German officer of the late Schleswig-Holstein army, offering the services of himself and other members of that late force, who are living in the United States of America, to Her Majesty's Government in the formation of the Foreign Legion.

I have, &c.

(Signed)

HERMAN MERIVALE.

Inclosure 1 in No. 6.

Sir Edmund Head to Sir G. Grey.

(Extract.)

Government House, Quebec, January 12, 1855.

I HAVE the honour to inclose a copy of a paper which I have received this day from New York.

I have sent a copy of this paper to the British Consul at New York, and have requested him to collect all possible information with reference to the persons from whom it professes to come, and I have also told him that it will be expedient that he should communicate such information, when obtained, to the English Government.

Inclosure 2 in No. 6.

*Memorial.**New York, January 8, 1855.*

To his Excellency Sir Edmund Head, Bart., Governor-General of Canada.

May it please your Excellency,

THE last European news brought to this country leads us to hope the Bill for the enlistment of 40,000 Germans in the armies of Great Britain will soon be passed by the British Parliament.

With great pleasure and much joy was this intelligence received by the officers and privates of the late Schleswig-Holstein army, now sojourning in this country, and hailed as the dawn of that day to which their highest aspirations looked forward—the day which would afford them an opportunity of mixing in the ranks of the brave and patriotic men who now combat for so glorious a cause, and it is in their name that I have the honour of asking your Excellency if you can at present direct us as to how, or under what circumstances, we are to offer our humble but hearty services in that cause, by getting enrolled in the contemplated German Legion. Shall we have to go direct to England? Or can we go and be enlisted in Canada? We are deficient in what the heart of a soldier seldom covets, riches or wealth.

I beg, moreover, to inform your Excellency that not one of us is a political refugee; nothing but distressed circumstances, consequent upon the sudden dismemberment of the army of Schleswig-Holstein, drove us from Europe to America, and now we hail with inexpressible delight the prospect of returning, under circumstances which will afford us the honour of devoting our best services to the cause for which Great Britain is pouring forth the blood of her bravest.

May it please your Excellency to afford us such advice in the premises as to your Excellency may seem fit.

I have, &c.

(Signed)

OXAR CROMREY,

*Late Lieutenant of 11th Regiment of Infantry,
in the Army of Schleswig-Holstein.*

No. 7.

Mr. Merivale to Mr. Hammond.—(Received February 16.)

Sir,

Downing Street, February 16, 1855.

I AM directed by Mr. Secretary Herbert to transmit to you, for the consideration of the Earl of Clarendon, the copy of a confidential despatch addressed to the Lieutenant-Governor of Nova Scotia, on the subject of the enlistment of European foreigners and British subjects resident in the United States, under the Foreign Enlistment Act; and I am to state that, in pursuance of the terms of the last paragraph of this despatch, Mr. Herbert would suggest that a copy of it should be communicated to Her Majesty's Minister at Washington by this day's mail.

I am, &c.

(Signed)

HERMAN MERIVALE.

Inclosure in No. 7.

Mr. S. Herbert to Sir Gaspard le Marchant.

(Confidential.)

Sir,

Downing Street, February 16, 1855.

I TRANSMIT to you a copy of the Foreign Enlistment Act, which has been passed in Parliament in the present session; and, in connection with it, am anxious to call your immediate attention to the following subject.

Her Majesty's Government have received communications from the British Minister at Washington, and also from some of the Consuls in American cities, which lead them to suppose that a considerable number of German and other European foreigners, now resident in the United States, are ready and disposed to enlist under the provisions of this Act.

In particular, it has been stated that there are, scattered in different parts of the Union, men who have seen service with the Schleswig-Holstein army, and who have, therefore, the advantage of a certain amount of military training, and who would willingly take up arms again under the British standard.

But supposing these statements to be well founded, the men in question could not be enlisted for British service on American soil with due respect to the laws of the United States as a neutral Power; and considering how uncertain it is whether parties who might thus offer themselves would turn out fit for enlistment, it is scarcely practicable to invite them over to this country with the chance of rejection.

Under these circumstances, it has occurred to Her Majesty's Government that it might be possible for men who should represent themselves to the Consuls, or other British authorities, in the United States, as willing to serve, to proceed to Halifax, if a depôt, of which public notice would be given, in Nova Scotia, could be established in that city, under your inspection, for the reception of recruits for a Foreign Legion, where they might be examined, and, if found fit for service, enlisted, and either sent to this country, or formed on the spot into a battalion. It is also stated that a large number of persons in the United States who are British subjects, would be willing to take service in the British army if an opportunity were afforded them of enlisting. It would be necessary to keep the latter class of recruits (if such should offer themselves) quite distinct from foreigners, and they might, perhaps, be willing to enlist for existing regiments of the line.

I shall be glad if you will consider whether Halifax could conveniently be made a place of rendezvous for such persons, and whether arrangements could be made for their enlistment and training. There are several points to be considered. In the first place, how to bring the volunteers from their residence in the United States to Nova Scotia. On this point I have to desire that you will communicate confidentially with Mr. Crampton. Her Majesty's Government are desirous of having your opinion on the practicability of the scheme I have suggested, without delay.

The next question will be, how to dispose of those who may be found fit for service after their arrival in Nova Scotia; and how to dispose, afterwards, of

those who might be rejected on inspection. As to these points, your advice is particularly requisite.

These questions are particularly addressed to you as to the enlistment of private soldiers. But I have to request that you will consider, in concert with Mr. Crampton, how fit officers can be best provided, and that you will favour me with any suggestions you may have to offer on this point.

Her Majesty's Government are anxious to keep this subject wholly distinct from that of levying native soldiers in Nova Scotia, on which you have been already privately consulted.

Should the scheme appear practicable, further directions as to the selection of recruits among the foreigners or British subjects, who may present themselves, would be at once transmitted to you.

Copy of this despatch is sent to Mr. Crampton, at Washington, by this mail; you will therefore be able to enter at once into confidential correspondence with him on the subject of it.

I am, &c.
(Signed) S. HERBERT.

No. 8.

The Earl of Clarendon to Mr. Crampton.

(Extract.)

Foreign Office, February 16, 1855.

I TRANSMIT to you herewith, for your information, a copy of an instruction addressed by the Secretary of State for the Colonial Department to Sir Gaspard le Marchant,* with respect to foreigners or British subjects in the United States who, Her Majesty's Government have been given to understand, are desirous of enlisting in the service of Her Majesty.

The subject is one which engages the earnest attention of Her Majesty's Government, and you will use your best endeavours to give effect to their wishes.

You will communicate with Sir Gaspard le Marchant and Her Majesty's Consuls in the United States upon this matter; but you will bear in mind that, however desirous Her Majesty's Government may be to obtain recruits, they are still more anxious that the laws of the United States should be scrupulously respected; and you will yourself take care, and recommend the utmost caution to Her Majesty's Consuls, that no cause of complaint on this ground be given to the United States' Government.

I inclose copies of the Act of Parliament allowing foreigners to be enlisted, and to serve as officers and soldiers in Her Majesty's forces.

No. 9.

Governor Sir Gaspard le Marchant to the Right Hon. Sidney Herbert.—
(Received March 12.)

(Extract.)

Halifax, Nova Scotia, March 1, 1855.

REFERRING to your despatch of the 16th February last, I beg to inform you that I have deemed it prudent, instead of entering upon a correspondence that might occasion delay, to select a person who enjoys the confidence of my Government, and in whose discretion and ability I have full reliance, to proceed to Washington, and put himself in direct communication with the British Minister.

The gentleman to whom I refer fully comprehends the views and policy of Her Majesty's Government; and you may be assured that nothing will be done that can give just cause of umbrage to the Government of the United States.

Men can be brought to Halifax in the packets that regularly ply between this and either Boston or New York.

No. 10.

Mr. Crampton to the Earl of Clarendon.—(Received March 30.)

(Extract.)

Washington, March 12, 1855.

I HAVE the honour to inform your Lordship that I have lost no time in taking such measures as are within my power for the furtherance of the wishes of Her Majesty's Government to obtain recruits for the army, as conveyed to me by your Lordship's despatch of the 16th ultimo.

In order that no misconception or mistake should arise in regard to this matter, which is justly regarded by Her Majesty's Government as one of primary importance, and which is indeed an indispensable condition to success in the objects they desire to effect, I have caused the legal opinion in regard to the bearing of the Neutrality Laws of the United States in this matter, of which I have the honour to inclose a copy, to be drawn up by an eminent American lawyer, in the soundness of whose views—both professional and political—I place the firmest reliance. I have sent copies of the same to such of Her Majesty's Consuls as may be required to act in the matter we have in hand.

Your Lordship will no doubt perceive that the provisions of the Neutrality Act will restrict our operations within very narrow limits, but I feel convinced that your Lordship will approve of my having strictly enjoined upon Her Majesty's Consuls to keep rigidly within the limits of the law according to its true meaning and intent, as well as according to the letter of its provisions.

I have the honour to inclose the copy of a despatch which I have addressed to Sir Gaspard le Marchant.

Inclosure 1 in No. 10.

Opinion upon Enlistment in the United States.

ACT of Congress, 20th April, 1818, commonly called the "Neutrality Act,"
3 Stat. 447.

By the 2nd Section of this Act, a person enlisting himself within the United States, for foreign service, is punishable; and the person who enlists him, is also punishable. This is the case of a complete enlistment within the United States; both parties to which contract are offenders. But it was apparent that if the statute stopped here, nothing would be easier than to evade its provisions. Good faith required that it should, if possible, be made to reach and prevent the mischief against which it was directed.

Accordingly it is made equally an offence "to hire or retain" any person to go beyond the limits or jurisdiction of the United States, "with intent to be enlisted." The offender in this case is the party hiring or retaining another to go, &c., with intent, &c.; and is complete by the fact of such hiring or retaining, whether the party so hired or retained actually go abroad and be enlisted or not. The proof thereof would ordinarily be found at hand, if found at all, and might be drawn from the other party to the contract, who could interpose no objection on the score of criminating himself, since, as to him, there is no offence except by enlistment within the United States, which the supposed case excludes. The danger of volunteer witnesses among such people would also be very great.

But the question is, what would amount to a "hiring or retaining?"

These words in this particular connection would be construed with a view to prevent the evasion of the statute, this being the evident intent of the prohibition we are considering.

In the *United States v. Quincey* (6 Peters), a case under the 3rd section of the Act, the Supreme Court proceeded in that spirit of construction. I think the words "hire or retain" susceptible of a very broad interpretation in such a statute. I incline to think they would be held to reach every case of payment, expenditure, or other valuable consideration (however ingeniously devised) moving from the party charged to another person, to the end and with the intent that such other should "go beyond," &c., &c. "Do ut facias," or "facio ut facias."

The facts and circumstances tending to prove the offence, however inconsiderable, being given in evidence, it would be for the jury to find the intent. [REDACTED]

The proceedings at New Orleans* furnish no guide to a safe conclusion as to similar proceedings in another quarter, or involving other topics of popular speculation and excitement.

If there were any facts tending to prove the offence, they must be submitted to the jury; and the judge could do no less than charge them that no scheme or device to cover the real nature of the transaction, if they saw through it clearly, could relieve them from the duty of convicting the traverser.

When we consider the necessity of something like an inspection; the unavoidable coincidence of numbers of emigrants; the malice of rejected applicants; the inducements to treachery; the natural vigilance of a certain portion of the community in such a matter, and through them the action of the press and of the police; I think the least to be apprehended is a prosecution, whatever its result; and in that event the connection of any official person, however indirect or faintly traced, would more than counterbalance the advantages proposed.

Inclosure 2 in No. 10.

Mr. Crampton to Sir Gaspard le Marchant.

(Extract.)

Washington, March 11, 1855.

A COPY of the instructions addressed to your Excellency by the Secretary of State for the Colonial Department has already been forwarded to me by the Earl of Clarendon, accompanied by an instruction from his Lordship to myself to use my best endeavours to give effect to the wishes of Her Majesty's Government, and with that view to communicate with your Excellency for the purpose of obtaining your cooperation in regard to such measures as may be adopted with safety; and with a scrupulous respect to the provisions of the law of the United States.

Thus, though not empowered by Her Majesty's Government to raise or embody in the United States troops for Her Majesty's service—for this would be obviously impracticable in view of the existing laws of this country—I feel ~~fully~~ authorized to use such means as may be within my power, and are legal, to meet the views of Her Majesty's Government.

The just anxiety which is felt by Her Majesty's Government to avoid the possibility of any cause of complaint on the part of the Government of the United States has induced me to give this part of the subject my best consideration; and with a view of avoiding the possibility of any misconception or mistake, I have caused the legal opinion of which I have the honour to inclose a copy, to be drawn up by an able American lawyer, stating the bearing of the Neutrality Laws of the United States upon the matter.

I have furnished your agent with a copy of this opinion for his information and guidance, and I have directed him to confine his operations, in the first instance, to making inquiries as to the desire which may exist among the inhabitants of the eastern cities of the United States to enter Her Majesty's service, to inform such persons generally of the disposition of Her Majesty's Government, to accept such properly qualified candidates as may offer themselves, to make them acquainted with the terms upon which the enlistments will be made, and with the places within the British dominions to which they may repair for the purpose of being enrolled, carefully abstaining, however, from entering into any agreement with such persons, or from doing anything which might be construed into "retaining or hiring" any individual to emigrate for the purpose of enlisting in the British service. Any advance of money by Her Majesty's agents, or others, in the United States, would constitute an infraction of the Neutrality Law.

* General Quitman's case.

No. 11.

Consul Mathew to the Foreign Office.—(Received April 4.)

(Extract.)

Philadelphia, March 20, 1855.

THE Neutrality Laws of the United States have been carefully kept in view by me and I trust by all others concerned, although I had some cause to fear inconveniences from the forward officious zeal of an Englishman, of the name of Perkins.

No. 12.

Mr. Merivale to Lord Wodehouse.—(Received April 7.)

(Extract.)

Downing Street, April 7, 1855.

I AM directed by the Secretary of State to transmit to you, for the consideration of the Earl of Clarendon, a copy of a despatch from the Governor of Canada, inclosing a copy of a letter from a gentleman of New York, offering to raise a number of men in the United States for Her Majesty's service.

Inclosure 1 in No. 12.

Sir Edmund Head to Sir G. Grey.

Sir,

Government House, Quebec, March 1, 1855.

I HAVE the honour to inclose a copy of a letter which I have received from New York, offering to raise a number of men in the United States, for Her Majesty's service. I have sent a copy of such letter to Mr. Crampton.

I have, &c.

(Signed) EDMUND HEAD.

Inclosure 2 in No. 12.

Mr. Grant to Sir Edmund Head.

Your Excellency,

New York, February 9, 1855.

ENGLAND has money, but in the present emergency she needs men.

I can furnish at a week's notice 500 men—bold and fearless, inured to danger and fatigue, ready and willing to obey their officers—provided the means for their equipment and transportation is furnished.

If the roll for a volunteer regiment was opened at your capital, it would in the course of a few days be rendered strong by from 500 to 600 peaceable travellers (unknowing and unknown) quietly departing from this city to visit the capital of the Canadas, but when once out of the jurisdiction of the United States, those men in the course of a few days would attach themselves to your service, until the expiration of the war. The conditions they ask are, that they shall be represented by their officers in the regiment, and be transported back to any part of the Canadas at the end of their term of service.

By accepting this proposition you would not only be securing the services of a well-trained body of men, but would in a measure serve political ends, for although in some, perhaps in many instances, sympathy is felt by persons individually for England in this war, yet there is nothing to fix any especial interest in the people; but let it be once known that there was a regiment principally composed of residents from this country in your service, and you will see that Germany, with its petty States, cannot produce such a nursery of soldiers for England as the United States of America.

Sir, if you are disposed to further our views, and if not, you will favour us with your advice, I, on the part of those connected with me, shall subscribe myself, yours, &c.

(Signed) LEWIS E. GRANT.

9, Gold Street, New York.

No. 13.

Mr. Crampton to the Earl of Clarendon.—(Received April 8.)

(Extract.)

Washington, March 26, 1855.

I HAVE the honour to inclose an extract from a letter which I have received from Mr. Consul Barclay at New York, informing me that the person whose name is at the foot of the printed handbill therein inclosed, had stated to him that that handbill had been issued by authority, that is, I presume, by the authority of Her Majesty's Government.

As the person who signed the handbill, Angus McDonald, is totally unknown to me, and is certainly not acting under the authority or under the suggestion of this Legation, or, as far as I am aware, under that of any other agent of Her Majesty's Government; and as, moreover, the act of issuing a printed notice of this sort might be taken to constitute an infraction of the Neutrality Laws of the United States, I have lost no time in instructing Mr. Barclay to disavow Mr. McDonald's proceeding, and to read to him the letter of which I have the honour to inclose a copy.

Perceiving that the subject of a supposed enlistment at New York of troops for the British army has been commented upon in the newspapers, I thought it right to state to Mr. Marcy the true state of the case, and the steps I had taken in the matter.

I accordingly read to him my above-mentioned letter to Mr. Barclay.

Mr. Marcy observed that he had never doubted that no sort of countenance would be given by Her Majesty's Government to persons who should use their name in any attempt to violate the Neutrality Laws. He added, however, that the proceeding in question had been brought under his notice, and that orders had already been given to the District Attorney of the United States to institute legal proceedings against Angus McDonald, or any other persons who should be found to have rendered themselves liable to the penalties of the Act of Congress regarding the enlistment of citizens or residents in the United States for the service of a foreign Power.

Inclosure 1 in No. 13.

Consul Barclay to Mr. Crampton.

(Extract.)

New York, March 21, 1855.

THE person whose name is at the foot of the inclosed printed paper informs me that it has been done by authority. I fear it will produce a ferment.

“HIGHLY IMPORTANT TO THE UNEMPLOYED!—The British Government having concluded to form a Foreign Legion in Nova Scotia, and to raise several regiments for duty in the Provinces, offer a bounty of 6*l.*, or 30 dollars, together with the pay of 8 dollars a-month, rations, good clothing, and warm quarters, to every effective man fit for military duty, from nineteen to forty years of age; to join which are invited English, Irish, Scotch, and Germans.

“The Subscriber (with the view of assisting those who have not the means of paying their passage) hereby gives notice that he has opened a Passage Office, No. 36, Pearl Street (near Broad), where he proposes to engage passages by good vessels to Halifax, leaving twice or three times a week, for the sum of five

dollars ; or, procure through-tickets by railroad, leaving every morning (Sundays excepted), and arriving at St. John's, near Montreal, that evening, which passage money must be paid him or his agent, by the parties, together with the small sum of 50 cents additional for commissions, on arriving at their destination in the province.

"It is hoped that those effective men who are now suffering and in distress, will avail themselves of this rare opportunity of bettering their condition before it is too late.

(Signed) "ANGUS Mc DONALD."

Inclosure 2 in No. 13.

Mr. Crampton to Consul Barclay.

Sir

Washington, March 22, 1855.

I HAVE received your letter of the 21st instant, inclosing a printed handbill, signed Angus McDonald, and informing me that the said McDonald states to you that he has issued it by the authority of Her Majesty's Government.

I have to state to you that Angus McDonald has no authority from Her Majesty's Government for the issue of the handbill in question, or for hiring or retaining any person in the United States to go beyond the limits of the same with intent to be enlisted in Her Majesty's service.

This would constitute an infraction of the Neutrality Laws of the United States (Act of Congress, 1818, section 2) ; and Her Majesty's Government, however desirous they may be to obtain recruits for the British army, are still more anxious that the laws of States with which Her Majesty is at peace should be respected.

I have, &c.

(Signed) JOHN F. CRAMPTON.

No. 14.

*Governor Sir Gaspard le Marchant to the Secretary of State for the Colonies.—
(Received April 9.)*

(Extract.)

Halifax, Nova Scotia, March 29, 1855.

IN the absence of all positive information from Mr. Crampton on the important subject communicated to me by Her Majesty's Government in the despatch of the 16th February, which I had the honour to receive by the last mail, I have hitherto been restrained from replying to it as fully as could have been desired.

Halifax, being the nearest port to Europe on this side of the Atlantic, offers, in my opinion, the most favourable point for establishing a depôt, and I can see no reason why a large body of men should not, at once, be accommodated there.

But, independently of such resources as now exist, I consider that for the next nine months it would be far more desirable to form an encampment where the men might be hutted, and at once initiated into the duties and requirements incident to active service.

On this point it may not be irrelevant to remark, with reference to the difficulty that has hitherto presented itself in the Crimea, as to the inability of the men to hut themselves in such a way as to provide warm accommodation in the inclement seasons of that climate, that in this country, as in Canada, the Indians live through the winter without inconvenience, with the thermometer twenty degrees below zero, in the most primitive camps, easily constructed, and affording every protection against the severity of the weather, and which I think might, with effect, be introduced as worthy of adoption in the encampment of this force.

With respect to officering the corps, I am led to believe that a great number of most respectable young men would be happy to offer their services, and I also

think that a number of half-pay officers in this country might be easily called into the service.

From information received, I conceive that the greater proportion of the men likely to enlist have previously served in the armies of their respective countries, and that there would be little difficulty in at once forming them into an organised body.

No. 15.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, April 12, 1855.

I ENTIRELY approve of your proceedings as reported in your despatch of the 12th ultimo, with respect to the proposed enlistment in the Queen's service of foreigners and British subjects in the United States.

The instructions which I addressed to you upon this subject, and those which were sent to the Governor of Nova Scotia, were founded upon the reports from various quarters that reached Her Majesty's Government, of the desire felt by many British subjects as well as Germans in the United States, to enter the Queen's service, for the purpose of taking part in the war in the East; but the law of the United States with respect to enlistment, however conducted, is not only very just, but very stringent, according to the report which is inclosed in your despatch, and Her Majesty's Government would on no account run any risk of infringing this law of the United States.

I am, &c.
(Signed) CLARENDON.

No. 16.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, April 13, 1855.

I HAVE to acknowledge the receipt of your despatch of the 26th ultimo, inclosing copies of your correspondence with Mr. Consul Barclay on the subject of an unauthorized attempt by a person named Angus McDonald, to enlist persons in New York for Her Majesty's service; and I have to acquaint you that I entirely approve of the letter which you addressed to Mr. Barclay, and also of the remarks which you made to Mr. Marcy, in the course of a conversation which you had with him on the subject of Mr. McDonald's proceedings.

I am, &c.
(Signed) CLARENDON.

No. 17.

Mr. Lumley to the Earl of Clarendon.—(Received May .)

(Extract.)

Washington, May 7, 1855.

AT an interview which I had with Mr. Marcy I told him that he had judged rightly in supposing that Mr. Crampton's visit to Canada had reference to the Enlistment question.

I stated that, from the first moment this question was mooted, Mr. Crampton had shown the greatest anxiety that it should in no way lead to violations of the laws of the United States, that he believed everything that could be done might be effected legally, and that he was determined, as far as lay in his power, to prevent anything like infraction or evasion of the Neutrality Laws of this country. Unfortunately the very stringent nature of the provisions of these laws was not generally understood, and several persons had on their own responsibility acted at variance with them, and it was for the purpose of

fully explaining the bearings of the law, and of preventing such infractions, that Mr. Crampton had undertaken his journey to the British Provinces.

I then told Mr. Marcy that as I thought it would interest him to see your Lordship's last instructions on the subject I had brought them with me, and I said that I was certain a perusal of this paper would convince him of two things: first, that the view which had been taken, and the opinions which had been expressed by Mr. Crampton on this subject, were precisely such as Mr. Marcy might have expected from his knowledge of Mr. Crampton; and secondly, that those opinions had been responded to by Her Majesty's Government in the same frank and honourable manner.

I then read to Mr. Marcy a copy of your Lordship's despatch of the 12th ultimo. Mr. Marcy appeared much pleased with this communication, and said that as the question was one which had engaged the attention of the United States' Government he should be very glad to be able to show this despatch to the Cabinet. I told Mr. Marcy that I had no instructions to leave it with him, but I would take upon myself to do so if he would consider it in the light of a private memorandum.

Mr. Marcy said he would note it as such, and that if at any time Mr. Crampton wished, he might recall it; "the question," Mr. Marcy added, "will no doubt come before Congress, and I should be glad if this despatch could be found among the papers called for."

I am aware that in leaving this despatch with Mr. Marcy I have transgressed the regulations of Her Majesty's service, for which I must throw myself on your Lordship's indulgence, but Mr. Crampton was anxious that the United States' Government should not for a moment suppose that a project for enlisting troops for Her Majesty's service within the United States had ever been contemplated.

After reading the despatch himself Mr. Marcy said he had no doubt that the course pursued by Mr. Crampton was the proper one; he was, indeed, convinced of this from having seen Mr. Crampton's instructions to Her Majesty's Consuls when the question of recruiting in the United States first arose.

No. 18.

The Earl of Clarendon to Mr. Lumley.

(Extract.)

Foreign Office, June 8, 1855.

I APPROVE of your having communicated to Mr. Marcy my despatch to Mr. Crampton of the 12th of April last, respecting the proposed enlistment of foreigners and British subjects in the United States, and also of the language which you used on that occasion, as reported in your letter to me of the 7th ultimo.

No. 19.

Mr. Lumley to the Earl of Clarendon.—(Received June 11.)

My Lord,

Washington, May 21, 1855.

THE correspondence, copies of which I have the honour to transmit herewith to your Lordship, will, I believe, serve to illustrate the difficulties which prevent many persons from leaving this country, who would freely emigrate for the purpose of serving in Her Majesty's armies, were the character of the Neutrality Laws of the United States less stringent and comprehensive than is actually the case.

In my reply to Mr. Consul Dyer, I have endeavoured to convey, as clearly as was in my power, the views entertained by Mr. Crampton on this important subject.

I have, &c.

(Signed)

J. SAVILE LUMLEY.

Inclosure 1 in No. 19.

Consul Dyer to Mr. Crampton.

(Extract.)

Mobile, May 7, 1855.

ON Saturday last I received a visit from the writer of the letter I have the honour to transmit herewith to your Excellency. He informed me that the object of his coming to me was for the purpose of saying that he, together with some fifty of his compatriots, was most anxious to engage himself in Her Majesty's service, for the purpose of serving in the present war against Russia, and he wished me to advise him as to the best way of doing so.

I informed him that having received no instructions on the subject, it was quite impossible for me to advance his wishes, but that if he would address a letter to your Excellency, stating them, I would forward it in a despatch of my own, asking your Excellency's advice in the matter.

I was more particularly guarded in my manner of speaking to ——— in consequence of the recent arrests in New Orleans of persons (said to be British agents) charged with violating the Neutrality Laws by their endeavours to enlist men for the service of Great Britain. I therefore did nothing in the matter but advise him to write to your Excellency, and promise to send his letter when written.

This morning he brought me the document I transmit herewith ; and at the same time I would ask your Excellency's instructions for my future guidance in these cases, more especially as I have had at least ten applications from persons representing themselves as British subjects wishing to serve Her Majesty, to all of whom I have had to give the same answer, namely, that in consequence of having had no instructions on the subject, it was impossible for me to do anything for them.

Inclosure 2 in No. 19.

————— to Mr. Crampton.

(Extract.)

Mobile, May 6, 1855.

THE Undersigned most respectfully represents himself to your Excellency as a native of Poland.

The war in which the two great Western Powers are engaged against Russia has raised in me the ardent desire to secure a change, if possible, to fight against the oppressors of my country, and to furnish as many of my countrymen as I possibly can for the same purpose. I reside in Mobile, and there are from forty-five to fifty Poles residing in the different counties engaged in business more or less profitable.

I have communicated with these gentlemen, and they have the greatest desire to be sent to the seat of war against their common enemy, and to serve as volunteers.

I most respectfully implore your Excellency to be informed, through the Consul of this city, if those men could be furnished with means necessary to proceed down to this place, and how they could be sent to their new destination. The men are all good soldiers, and moreover moral, sober, and industrious men. Might I be informed through the Consul here what could be done to forward our wishes, and under what conditions we could reach the seat of war ?

I have a family in this city, for which of course I would implore your Excellency to provide some means of assistance during my service in Her Majesty's army.

Inclosure 3 in No. 19.

Mr. Lumley to Consul Dyer.

(Extract.)

Washington, May 13, 1855.

IN reply to your letter of the 7th instant, received this day by me in the absence of Mr. Crampton, I beg to inform you that, although the services of the gentleman and his friends would, without doubt, be gladly received by Her Majesty's Government, the very stringent and complicated nature of the Neutrality Laws of this country render it impossible to comply with his wishes as expressed in the communication inclosed in your letter.

By the laws above referred to it is not only illegal to enlist or recruit individuals of any nation, within the United States, for the service of a foreign Power, but equally an indictable offence to hire or retain any person to emigrate beyond the United States for the purpose of enlisting in foreign military service against a Power with whom the United States' Government is at peace. You have, therefore, acted with due discretion in replying as you have done to the offers that have been made to you. Her Majesty's Government are, however, naturally anxious to obtain as many recruits as possible, when they can be procured without infringing the laws of the United States, and as there exists no law prohibiting voluntary emigration for the purpose of enlistment, there is nothing to prevent any number of persons from proceeding to Halifax, or any other portion of the British Possessions, where they will meet with every facility for entering Her Majesty's service. But a promise to pay the travelling expenses, or to provide for the family of any person who may join Her Majesty's service, as proposed by your correspondent, would not only deprive such emigration of its voluntary character, but would constitute a violation of the Neutrality Laws of the United States, and no proposition of this nature can therefore be entertained by Her Majesty's Minister or Consuls.

There is, however, nothing illegal in giving full information on this subject to all who may require it.

No. 20.

Mr. Lumley to the Earl of Clarendon.—(Received June 11.)

My Lord,

Washington, May 29, 1855.

I HAVE the honour to inclose an extract from the "National Intelligencer," giving an account of the trial before the United States' Circuit Court at Philadelphia of three persons, charged with recruiting soldiers for the British army within the territory of the United States; and I take the liberty of calling your Lordship's attention to the opinion expressed by Judge Kane on this occasion, "that the payment of the passage from this country of a man who desires to enlist in a foreign port does not come within the Act of 1818," commonly called the Neutrality Law.

I have, &c.

(Signed) J. SAVILE LUMLEY.

Inclosure in No. 20.

Extract from the "Daily National Intelligencer" of May 25, 1855.

ENLISTMENTS FOR FOREIGN SERVICE.—A hearing was had on Tuesday before the United States' Circuit Court at Philadelphia (Judge Kane presiding), in the case of Messrs. Hertz, Perkins, and Bucknell, charged with recruiting soldiers for the British army in the Crimea.

The defendants sued out a *habeas corpus* asking to be discharged from custody.

The testimony taken before Commissioner Heazlitt at the primary hearing

was read by United States' District Attorney Van Dyke, and its application to the cases before the Court commented upon. He claimed to have the authority to indict the defendants under the Act of 1818. The second section, upon which the prosecution relies, reads thus :

"And be it further enacted, That if any person shall, within the territory or jurisdiction of the United States, enlist or enter himself, or go beyond the limits or jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign prince, state, colony, district, or people, as a soldier, or as a marine or seaman on board of any vessel of war, letter of marque, or privateer, every person so offending shall be deemed guilty of a high misdemeanour, and shall be fined not exceeding one thousand dollars and be imprisoned not exceeding three years."

Judge Kane said he had read the Act, and formed an opinion. He would reject from the consideration every argument founded on the punctuation of it. The phraseology of the second section is clear. The word "soldier" does not connect itself with any vessel. The important words in the Bill are "hire or retain," which include mutuality of engagement. "Contract" means one having paid, or engaged to pay or perform. I do not think that the payment of the passage from this country of a man who desires to enlist in a foreign port comes within the Act. In the terms of the printed proclamation there is nothing conflicting with the laws of the United States. A person may go abroad, provided the enlistment be in a foreign place, not having accepted and exercised a commission. There is some evidence in Hertz's case that he did hire and retain, and therefore his case would have to be submitted to a jury. In Perkins' case there was testimony upon which a jury might convict. In Bucknell's it appears that there was a conversation at which he was present, but there was no enlistment, or hiring, or retaining. The conversation related as to the practicability of persons going to Nova Scotia to enlist. If the rule I have laid down be correct, then the evidence does not connect him with the misdemeanour. Mr. Bucknell is therefore discharged, and Messrs. Perkins and Hertz are remanded to take their trial.

No. 21.

The Earl of Clarendon to Mr. Lumley.

(Extract.)

Foreign Office, June 14, 1855.

I APPROVE the letter which you addressed to Mr. Dyer, Her Majesty's Consul at Mobile, and of which a copy is inclosed in your despatch of the 21st ultimo, relative to the offer of a Pole to engage himself, together with about fifty others of his countrymen, in Her Majesty's service, for the purpose of taking part in the war against Russia.

You will convey to Mr. Consul Dyer my approval of the discretion with which he acted with regard to that offer.

No. 22.

The Earl of Clarendon to Mr. Crampton.

(Extract.)

Foreign Office, June 22, 1855.

I COMMUNICATED to the War Department Mr. Lumley's despatch of the 21st ultimo, inclosing copies of his correspondence with Her Majesty's Consul at Mobile, with regard to an offer made by a Pole, resident in that city, to enlist several of his fellow-countrymen for Her Majesty's Foreign Legion.

I have been informed by Lord Panmure in reply, that his Lordship wishes all further proceedings in the matter of enlistment to be stayed, and the project to be definitively abandoned.

Corresponding instructions to the Governor-General of Canada, and to the Lieutenant-Governor of Nova Scotia, will be dispatched by this evening's mail.

No. 23.

The Earl of Clarendon to Mr. Crampton.

(Extract.)

Foreign Office, July 6, 1855.

I HAVE to acquaint you that since the date of my despatch of the 22nd ultimo, instructing you to suspend all further proceedings in regard to enlistments for the Foreign Legion, I have been in communication with the War Department, and I have been informed by Lord Panmure that he has requested the Secretary of State for the Colonial Department to instruct Sir Gaspard le Marchant to receive certain Germans, should they find their way to Halifax; but in executing this instruction you will keep in view the caution I have already given to you in previous despatches, in regard to the strict observance of the existing laws of the United States.

I have to add that when the arrangements have been made respecting the Germans referred to in this despatch, you will consider in full force and act upon the intimation conveyed to you in my despatch of the 22nd ultimo, that Her Majesty's Government wish all further proceedings in the matter to be stayed, and the project to be definitively abandoned.

No. 24.

*Mr. Buchanan to the Earl of Clarendon.—(Received July 7.)**Legation of the United States, London, July 6, 1855.*

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States, has been instructed to call the attention of the Earl of Clarendon, Her Majesty's Principal Secretary of State for Foreign Affairs, to the fact that numerous attempts have been made, since the commencement of the existing war between Great Britain and Russia, to enlist soldiers for the British army within the limits of the United States, and that rendezvous for this purpose have been actually opened in some of their principal cities.

When intimations were thrown out that British Consuls in the United States were encouraging and aiding such enlistments, Mr. Crampton, Her Britannic Majesty's Minister at Washington, exhibited to the Secretary of State a copy of a letter which he had addressed to one of these Consuls, disapproving of the proceeding, and discountenancing it as a violation of the Neutrality Laws of the United States. After this very proper conduct on the part of Mr. Crampton, it was confidently believed that these attempts to raise military forces within the territory of a neutral nation, from whatever source they may have originated, would at once have been abandoned.

This reasonable expectation has not been realised, and efforts to raise recruits within the United States for the British army are still prosecuted with energy, though chiefly in a somewhat different form. To arrest a course of proceeding which so seriously compromised the neutrality of the nation in the existing war, prosecutions were instituted, by order of the American Government, against the offenders. This led to developments establishing the fact that the Lieutenant-Governor of Nova Scotia has had a direct agency in attempts to violate the Neutrality Laws of the United States. This will appear from the copy of a notification issued by that functionary, dated at Halifax, on the 15th March last, and believed to be genuine; a copy of which the Undersigned has now the honour to communicate to the Earl of Clarendon. This notification has been published in the newspapers of the United States. In consequence, it is believed, of this document purporting to be official, the practice of recruiting still proceeds with vigour, notwithstanding the legal measures adopted by the officers of the United States to suppress it. The American Government are constantly receiving information that persons are leaving, and have left, the United States, under engagements contracted within their limits, to enlist as soldiers in the British army on their arrival in the British Provinces. These persons are provided with ready means of transit to Nova Scotia, in consequence

of the express promise of the Lieutenant-Governor of that province to pay to "Nova Scotian and other ship-masters" the cost of a passage for each poor man "willing to serve Her Majesty," "shipped from Philadelphia, New York, or Boston."

The disclosures made within the very last month, upon a judicial investigation at Boston (a report of which is now before the Undersigned), afford good reason to believe that an extensive plan has been organised by British functionaries and agents, and is now in successful operation in different parts of the Union, to furnish recruits for the British army.

All these acts have been performed in direct violation of the second section of the Act of Congress of the 20th April, 1818, which provides, "That if any person shall, within the territory or jurisdiction of the United States, enlist or enter himself, or hire or retain another person to enlist or enter himself, or to go beyond the limits or jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign Prince, State, Colony, district, or people, as a soldier, or as a marine or seaman, on board of any vessel of war, letter of marque, or privateer, every person so offending shall be deemed guilty of a high misdemeanour, and shall be fined not exceeding 1,000 dollars, and be imprisoned not exceeding three years," &c.

The plain and imperative duties of neutrality, under the Law of Nations, require that a neutral nation shall not suffer its territory to become the theatre on which one of the belligerents might raise armies to wage war against the other. If such a permission were granted, the partiality which this would manifest in favour of one belligerent to the prejudice of the other, could not fail to produce just complaints on the part of the injured belligerent, and might eventually involve the neutral as a party in the war.

The Government of the United States, however, did not leave the enforcement of its neutral obligations to rest alone on the Law of Nations. At an early period of its history, in June 1794, under the administration of General Washington, an Act of Congress was passed defining and enforcing its neutral duties: and this Act has been supplied, extended, and enlarged by the Act, already referred to and now in force, of the 20th April, 1818. Under both these Acts the very same penalties are imposed upon all persons implicated, whether the actual enlistment takes place within the territory of the United States, or whether an engagement is entered into to go beyond the limits or jurisdiction of the United States, "with intent to be enlisted or entered in the service of any foreign prince," &c. Without the latter provision the former might be easily evaded, in the manner proposed by the Lieutenant-Governor of Nova Scotia. If the law permitted any individual, whether official or unofficial, to engage persons in Philadelphia, New York, and Boston to serve in the British army, and to enter into contracts to transport them to Halifax, there to complete the formal act of enlistment, then it is manifest that this law, to a very great extent, would become a dead letter.

The Undersigned is happy to know that in this respect the policy of the British Government is identical with that of the United States. The "Foreign Enlistment Act" (59 Geo. III, c. 69), like the Act of Congress, inflicts the same penalties upon any individual who shall, within the British dominions, engage "any person or persons whatever," "to go or to agree to go or embark from any part of His Majesty's dominions, for the purpose or with intent to be so enlisted," as though the enlistment had actually taken place within the same.

And here it may be worthy of remark, that neither the "Foreign Enlistment Act," nor the Act of Congress, is confined to the enlistment or engagement of British subjects or American citizens respectively, but rightfully extends to individuals of all nations—"to any person whatever." The reason is manifest: the injury to the neutral principally consists in the violation of its territorial sovereignty by the belligerent, for the purpose of raising armies; and this is the same, no matter what may be the national character of the persons who may agree to enter the service.

The Government of the United States can look back with satisfaction to the manner in which it has performed its neutral duties at every period of its history, and this often at the imminent risk of being involved in war.

In the early stage of the present war, the British Government very properly turned its attention towards the Neutrality Laws of the United States, and particularly to the provisions which forbid the fitting out and manning privateers

for foreign service. Any remissness in enforcing such provisions would have been justly regarded by that Government as a violation of the neutral relations of the United States. It is not difficult to conjecture in what light the conduct of the American Government would have been viewed by the allies, had it not denounced and resisted any attempt on the part of their enemy to send its agents into the ports of the United States to fit out privateers, and engage sailors to man them. But would the Government of the United States be less censurably neglectful of the duties of neutrality, were it now to suffer one of the allies to recruit armies within its borders, than it would have been had it permitted the other belligerent to resort to American seaports for the purpose of organising a privateer force to take a part in the present war?

In view of all these considerations, the President has instructed the Undersigned to ascertain from the Earl of Clarendon how far persons in official station, under the British Government, have acted, whether with or without its approbation, either in enlisting persons within the United States, or engaging them to proceed from thence to the British Provinces, for the purpose of being there enlisted; and what measures, if any, have been taken to restrain their unjustifiable conduct.

The President will be much gratified to learn that Her Majesty's Government has not authorised these proceedings, but has condemned the conduct of its officials engaged therein, and has visited them with its marked displeasure; as well as taken decisive measures to put a stop to conduct so contrary to the Law of Nations, the laws of the United States, and the comity which ought ever to prevail in the intercourse between the two friendly Powers.

The Undersigned, &c.

(Signed)

JAMES BUCHANAN.

Inclosure in No. 24.

Proclamation.

MEN WANTED FOR HER MAJESTY'S SERVICE.

*Provincial Secretary's Office, Halifax, Nova Scotia,
March 15, 1855.*

THE Lieutenant-Governor of Nova Scotia having been empowered to embody a Foreign Legion, and to raise British regiments for service in the provinces or abroad, Notice is hereby given, that able-bodied men, between the ages of 19 and 40, on applying at the dépôt at Halifax, will receive a bounty of 6*l.* sterling, equal to 30 dollars, and on being enrolled, will receive 8 dollars per month, with the clothing, quarters, and other advantages to which British soldiers are entitled.

Preference will be given to men who have seen service.

The period of enlistment will be for three or five years, at the option of the British Government.

Officers who have served will be eligible for commissions. Gentlemen who wish to come into the Province, will please lodge their names, rank, date of service, &c., at this office.

Persons who serve in the Foreign Legion will, on the expiration of their term, be entitled to a free passage to America, or to the country of their birth.

Pensions or gratuities, for distinguished services in the field, will be given.

Nova Scotian and other shipmasters who may bring into this province poor men willing to serve Her Majesty, will be entitled to receive the cost of a passage for each man shipped from Philadelphia, New York, or Boston.

By command.

(Signed)

LEWIS H. WILKINS,

Provincial Secretary.

No. 25.

*The Earl of Clarendon to Mr. Buchanan.**Foreign Office, July 16, 1855.*

THE Undersigned, &c., has the honour to acknowledge the receipt of the note which Mr. Buchanan, &c., addressed to him on the 6th instant, respecting attempts stated to have recently been made to enlist within the limits of the United States soldiers for the British army.

The Undersigned must, in the first instance, express the regret of Her Majesty's Government if the law of the United States has been in any way infringed by persons acting with or without any authority from them; and it is hardly necessary for the Undersigned to assure Mr. Buchanan that any such infringement of the law of the United States is entirely contrary to the wishes and to the positive instructions of Her Majesty's Government.

The Undersigned, however, thinks it right to state to Mr. Buchanan, that some months ago Her Majesty's Government were informed from various sources that in the British North American Possessions, as well as in the United States, there were many subjects of the Queen who, from sentiments of loyalty, and many foreigners who, from political feeling, were anxious to enter Her Majesty's service and to take part in the war.

Her Majesty's Government, desirous of availing themselves of the offers of these volunteers, adopted the measures necessary for making generally known that Her Majesty's Government were ready to do so, and for receiving such persons as should present themselves at the appointed place in one of the British Possessions.

The right of Her Majesty's Government to act in this way was incontestable; but at the same time they issued stringent instructions to guard against any violation of the United States' Law of Neutrality, the importance and sound policy of which law are so well expounded by Mr. Buchanan, in whose remarks upon it, as well as upon the Foreign Enlistment Bill of this country, Her Majesty's Government entirely concur.

It can scarcely be matter of surprise that when it became known that Her Majesty's Government were prepared to accept these voluntary offers, many persons in various quarters should give themselves out as agents employed by the British Government, in the hope of earning reward by promoting, though on their own responsibility, an object which they were aware was favourably looked upon by the British Government.

Her Majesty's Government do not deny that the acts and advertisements of these self-constituted and unauthorized agents were in many instances undoubted violations of the law of the United States; but such persons had no authority whatever for their proceedings from any British agents, by all of whom they were promptly and unequivocally disavowed.

With respect to the Proclamation by the Lieutenant-Governor of Nova Scotia inclosed in Mr. Buchanan's note, the Undersigned can assure Mr. Buchanan, with reference both to the character of Sir Gaspard le Marchant, and to the instructions he received, as well as to his correspondence on those instructions, that that officer is quite incapable of intentionally acting against the law of the United States; and in proof that he did not in fact do so, the Undersigned begs leave to refer Mr. Buchanan to the legal decision given on the particular point adverted to by Mr. Buchanan, by Judge Kane on the 22nd of May last in the United States' Circuit Court at Philadelphia. The Judge says:

"I do not think that the payment of the passage from this country of a man who desires to enlist in a foreign port comes within the Act [the Neutrality Act of 1818]. In the terms of the printed Proclamation there is nothing conflicting with the laws of the United States. A person may go abroad, provided the enlistment be in a foreign place, not having accepted and exercised a commission. There is some evidence in Hertz's case that he did hire and retain, and therefore his case would have to be submitted to a jury. In Perkins's case there was testimony upon which a jury might convict. In Bucknell's case it appears that there was a conversation at which he was present, but there was no enlistment, or hiring, or retaining. The conversation related as to the practicability of persons going to Nova Scotia to enlist. If the rule I have

laid down be correct, then the evidence does not connect him with the misdemeanour. Mr. Bucknell is therefore discharged, and Messrs. Perkins and Hertz are remanded to take their trial."

As regards the proceedings of Her Majesty's Government, the Undersigned has the honour to inform Mr. Buchanan that Mr. Crampton was directed to issue strict orders to British Consuls in the United States to be careful not to violate the law; and Mr. Crampton was enjoined above all to have no concealment from the Government of the United States.

In the absence of Mr. Crampton from Washington, Her Majesty's Chargé d'Affaires placed in Mr. Marcy's hands a despatch from the Undersigned on this subject, expressly stating that "Her Majesty's Government would on no account run any risk of infringing this (the Neutrality) law of the United States."

The Undersigned has, however, the honour in conclusion to state to Mr. Buchanan, that Her Majesty's Government having reason to think that no precautionary measures, with whatever honesty they might be carried out, could effectually guard against some real or apparent infringement of the law which would give just cause for complaint to the Government of the United States, determined that all proceedings for enlistment should be put an end to, and instructions to that effect were sent out before the Undersigned had the honour to receive Mr. Buchanan's note; as the Undersigned need hardly say that the advantage which Her Majesty's service might derive from enlistment in North America, would not be sought for by Her Majesty's Government if it were supposed to be obtained in disregard of the respect due to the law of the United States.

The Undersigned, &c.

(Signed)

CLARENDON.

No. 26.

The Earl of Clarendon to Mr. Crampton.

(Extract.)

Foreign Office, July 19, 1855.

I TRANSMIT to you herewith, for your information, a copy of a note* which I have received from the United States' Minister at this Court, remonstrating against the proceedings of British Colonial authorities and their agents in raising recruits within the Union.

I also inclose a copy of the answer† which I have returned to Mr. Buchanan's communication.

No. 27.

Mr. Buchanan to the Earl of Clarendon.—(Received July 19.)

Legation of the United States, London, July 18, 1855.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States, has the honour to acknowledge the receipt of the note which the Earl of Clarendon, Her Majesty's Principal Secretary of State for Foreign Affairs, addressed to him on the 16th instant, in answer to his note of the 6th instant, on the subject of the enlistment and employment of soldiers for the British army within the United States; and the Undersigned will have much satisfaction in transmitting a copy of his Lordship's note to the Secretary of State by the next steamer.

The Undersigned, &c.

(Signed)

JAMES BUCHANAN.

No. 28.

Mr. Crampton to the Earl of Clarendon.—(Received July 30.)

My Lord,

Washington, July 16, 1855.

I HAVE the honour to inclose the copy of a despatch which I have just received from Her Majesty's Consul at Cincinnati, informing me that he has been arrested on a charge of enlisting men for Her Majesty's service.

I have, &c.

(Signed)

JOHN F. CRAMPTON.

P.S.—Since the above was written, I have received two newspapers from Cincinnati, containing reports of the legal proceedings against Mr. Consul Rowcroft and other persons on the above-mentioned charge. Of this offence I believe Mr. Rowcroft to be entirely innocent; and it would appear, even from the newspaper reports, that the means employed to get up the charge, reflect anything but credit on the Law Officers of the United States at Cincinnati.

J. F. C.

Inclosure in No. 28.

Consul Rowcroft to Mr. Crampton.

Sir,

Cincinnati, July 10, 1855.

I LOSE no time in informing your Excellency that I was arrested this morning, on a charge of enlisting men for Her Majesty's service.

I have neither enlisted any men nor engaged any men, although I have been obliged to talk with many who have presented themselves at my office for the purpose of joining the British army. But my answer has invariably been, "I cannot engage you," and "I can make no agreement," or words to that effect.

I found at the Court-house this morning that a gentleman of the name of Turnbull was arrested on the same charge, with about twenty others. My case is to be taken to-morrow; at present I am at large on my parole.

The cases of Mr. Turnbull and others are now under consideration at the Court-house.

I have, &c.

(Signed)

CHAS. ROWCROFT.

No. 29.

Consul Rowcroft to the Earl of Clarendon.—(Received July 30.)

(Extract.)

Cincinnati, July 11, 1855, 6 o'clock A.M.

I HAVE to inform your Lordship that, yesterday, between 8 and 9 o'clock in the morning, I was arrested by the United States' Marshal on a charge of enlisting soldiers at Cincinnati for Her Majesty's service.

I was taken to the Court-house before the United States' Commissioner. There, my counsel said they were ready to meet the charge immediately; but the Attorney for the State applied for a delay, or as they say here a "continuance," on the ground that he was not prepared with evidence, and that he wished for the presence of his elder or superior in office. This continuance was objected to by my counsel on the ground that the prosecution ought to have been prepared with evidence before the arrest was made. The Commissioner, however, granted the continuance; but said that he would not put me to the inconvenience of finding bail, under the circumstances, but would take my parole to appear before the Court at 3 o'clock (P.M.) next day. I hope to appear before the Court, therefore, at 3 o'clock this day, July 11.

When I was in Court I learned that about twenty other persons had been arrested on a like charge.

I have not been able to discover on what evidence my arrest was made; but late last night I was informed that a knot of persons known in this city as bitterly hostile to Great Britain had contrived the proceedings to "spite the British Government" through the Consul. However that may be, I have now to defend myself against the charge of enlisting soldiers for Her Majesty's service.

With respect to this charge I can safely say that I have never enlisted a man, nor engaged with any man. Many persons have applied to me, at my office, for the purpose of joining Her Majesty's forces in the Crimea, but my reply to all has invariably been that I could not do so. Some conversation on the subject has necessarily taken place; for as mine is an open office it is impossible to avoid it; nor have I been able to divine that the object of the person visiting me was to enlist, until after he was seated, and some words had passed preliminarily.

No. 30.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, August 2, 1855.

WITH reference to your despatch of the 16th ultimo, inclosing a copy of a despatch which you had received from Her Majesty's Consul at Cincinnati, informing you that he had been arrested on a charge of enlisting men for Her Majesty's service, I inclose herewith, for your information, a copy of a despatch* which I have addressed to Consul Rowcroft upon the subject of his arrest.

I am, &c.
(Signed) CLARENDON.

No. 31.

The Earl of Clarendon to Consul Rowcroft.

(Extract.)

Foreign Office, August 2, 1855.

I HAVE received your despatch of the 11th of July, reporting that you had been arrested on a charge of having been concerned in enlisting men in the United States for the British Foreign Legion.

I learn with satisfaction that you have not violated the laws of the United States by enlisting men, or by engaging men to enlist for the Legion.

No. 32.

Consul Rowcroft to the Earl of Clarendon.—(Received August 6.)

(Extract.)

Cincinnati, July 17, 1855.

I HAVE the honour to forward a copy of my despatch to Mr. Crampton, of yesterday's date, on the subject of my arrest and examination.

Inclosure in No. 32.

Consul Rowcroft to Mr. Crampton.

(Extract.)

Cincinnati, July 16, 1855.

MY recent despatches, and the newspapers containing the account of my arrest and examination, will have possessed your Excellency of the substance of the proceedings of the parties who have endeavoured to entrap me into an infringement of the Neutrality Laws relating to foreign enlistments.

* No. 31.

It will be seen from them, that this is a conspiracy of a certain Irish party in this city to vex and thwart the British Government through the person of the British Consul. The three principal witnesses are members of the "United Irish Society," of which the principal witness, Daniel Conohan, is president.

A plot was concocted by some members of the United Irish Society to entrap the British Consul into some act or expression to commit him, as a principal or accessory, in enlisting men for the British army.

The framers of this plot were all members of the same United Irish Society, viz., Conohan, Halpin, Laymotte, and Reidy. The witnesses who were to entrap, and the Commissioner who was to decide, were all members of the same society of "United Irishmen."

No. 33.

Consul Grattan to the Earl of Clarendon.—(Received August 13.)

(Extract.)

Boston, July 26, 1855.

I HAVE the honour to transmit to your Lordship herewith a printed extract taken from a Boston newspaper of recent date, containing a report of the trial of certain persons recently arrested on board the British brig "Buffalo," near Edgartown, in this State, on the charge of enlisting recruits for the British service, in contravention of the Neutrality Laws of the United States.

Inclosure in No. 33.

Extract from a Boston Newspaper.

VIOLATION OF THE NEUTRALITY LAW.—The trial of Kazinski and others for enlisting soldiers, is progressing. Some time was occupied yesterday in an argument upon a point raised by Mr. Hallett, whether it is necessary to prove "intent" on the part of the men on board of the vessel to enlist in foreign service, in order to make out a case against the prisoners. He desired this, in order to understand what kind of testimony to introduce. If it was necessary to prove intent on the part of the passengers, it would be necessary to show by the testimony of other persons, because if they had such intent, it would render them liable to the penalties attached to the infraction of the Neutrality Act, consequently they could not be called to testify, because they would implicate themselves.

Mr. Andrew replied, when the Court ruled that for the present the case might proceed on the presumption that it is necessary to prove intent to enlist on the part of the passengers. He also ruled that such persons would not inculcate themselves by testifying upon the point, as they have a perfect right to leave this country for the purpose of enlisting in foreign service. The question of admitting their declarations to third persons he reserved for further consideration.

This morning, after considerable argument from the various Counsel, Judge Sprague gave an opinion in the case, holding that the evidence was not sufficient under the statute for the conviction of the accused.

There was evidence of suspicious conduct on the part of defendants, but the witnesses failed to show that the defendants had been personally engaged in enlisting men for a foreign service. Under these instructions, the jury, without leaving their seats, acquitted all the defendants.

No. 34.

Mr. Crampton to the Earl of Clarendon.—(Received August 20.)

(Extract.)

Washington, August 7, 1855.

I HAVE the honour of inclosing a further letter which I have received from Mr. Rowcroft in relation to his arrest. This letter was written in answer to a note to Mr. Rowcroft from myself, inquiring of him whether he was certain, as appeared to be intimated in his despatch of the 16th ultimo, that the United States' Commissioner before whom his case was brought was a member of the Society of United Irishmen established in Cincinnati.

Inclosure in No. 34.

Consul Rowcroft to Mr. Crampton.

(Extract.)

Cincinnati, August 3, 1855.

IN reply to your question "whether the Commissioner before whom the charge was made is a member of the Society of United Irishmen?" I believe he is, but I cannot prove it: but I can prove this, that Mr. Warden, the Commissioner, Mr. Robinson, the Marshal, and Mr. Bennett, the Deputy-Marshal, are all closely affiliated with this Society of United Irishmen.

It is to be borne in mind also that Conohan, Halpin, and Maylotte are members of the society.

I can prove also that a warrant to arrest me and others was taken out on the 21st June, before Mr. Pendery, one of the Commissioners of the United States' Court, but that Conohan and Maylotte, two of the principal contrivers or agents of the plot, declared to Bennet that they would have nothing more to do with it unless the case could be taken before Mr. Warden, and in consequence the first warrant, signed by Mr. Pendery, was not acted upon, but it was copied by Mr. Warden, who was not familiar with the form of such an instrument.

Mr. Warden and his brother Robert have been for years closely connected with the Roman Catholic priesthood in this city, and I have information of a meeting that took place before my arrest, of Bishop Purcell of this city, Conohan, and Warden. And it was remarked at the investigation before Mr. Warden that Father Collins, who is the known agent of Bishop Purcell, was present, with another priest, watching the proceedings.

No. 35.

Mr. Crampton to the Earl of Clarendon.—(Received September 24.)

My Lord,

Washington, September 10, 1855.

I HAVE the honour to inclose the copy of a note, dated the 5th instant, which I have received from the United States' Secretary of State, upon the subject of alleged recruitments in this country for Her Majesty's army.

Your Lordship will perceive with surprise and regret that the Government of the United States, far from feeling satisfied with the frank explanations made by your Lordship to Mr. Buchanan in regard to this matter, or with the assurance that all idea of accepting the services of citizens or residents of the United States under any circumstances was definitively abandoned, make not the slightest allusion to those explanations or to that assurance, and have now assumed a position which places the matter in a light totally different from that in which I understood it to have been hitherto regarded by this Government.

Your Lordship will also observe that my own conduct, as well as that of other officers of Her Majesty's Government, is now inculcated by the Government of the United States as "constituting an infringement of the Law of Nations, disrespectful to the United States, and incompatible with the friendly relations between the two countries."

Your Lordship has been made aware of every step which I have taken in this matter, from its commencement till the moment I received your Lordship's directions to abandon all further proceedings in regard to it; and your Lordship is therefore aware that in affording such aid as was within my power to what I conceived, and still conceive, to be the legitimate object of Her Majesty's Government, it has been my constant care to avoid, and to inculcate upon others to avoid, any act which could possibly constitute a violation of the stringent municipal law of the United States on the subject of foreign enlistment.

A deliberate violation of the Law of Nations, and the commission of acts disrespectful to the Government to which I am accredited, are therefore charges for which I was not prepared, and to which I hope it is unnecessary that I should assure your Lordship I do not plead guilty.

Mr. Marcy's note, although addressed to myself, is in fact a rejoinder to your Lordship's reply to Mr. Buchanan's note of the 6th July on the same subject; and as its object, as stated in the concluding paragraph, is one which could not be satisfactorily attained without reference to Her Majesty's Government, I have deferred entering into any discussion of the topics of Mr. Marcy's communication until I shall have received your Lordship's instructions as to my future proceedings, and have confined myself in my reply, a copy of which I have the honour to inclose, to stating that I have submitted the matter to the consideration of Her Majesty's Government, and confidently trust that I shall be enabled to remove the unfavourable impression which has been created as to the motives and intentions of Her Majesty's Government and their officers, including myself, in regard to this question.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 35.

Mr. Marcy to Mr. Crampton.

Sir,

Washington, September 5, 1855.

HAVING ascertained that the scheme to raise recruits for the British army within the limits of the United States was vigorously prosecuted after our first conversation on the subject, and that officers of Her Britannic Majesty's Government were taking an active part in it, notwithstanding the disapprobation of this Government was well known, the President directed Mr. Buchanan, the United States' Minister at London, to be instructed to bring the subject to the attention of Lord Clarendon, Her Majesty's Principal Secretary of State for Foreign Affairs. Lord Clarendon, in his reply to Mr. Buchanan's note to him of the 6th of July last, admits that Her Majesty's Government did concur in and authorize some measures to be taken to introduce persons resident in the United States into the British army, but places the justification of the proceedings thus authorized upon the narrow ground that "stringent instructions" were issued to the British officers and agents to guard against any violation of the United States' Law of Neutrality, and his Lordship expresses a confident opinion that these instructions have been scrupulously observed. He is fully aware that volunteers have embarked in the scheme who have violated our laws. Though it was anticipated, as he confesses, that such volunteers, assuming to be agents of Her Majesty's Government, would take a part in carrying out the authorised scheme of drawing recruits from the United States, and would be likely to infringe our laws, yet as they were, as he alleges, self-constituted and unauthorised agents, he assumes that no responsibility for their conduct attaches to Her Majesty's Government or its officers.

In authorizing a plan of recruitment which was to be carried out in part within our territories, the British Government seems to have forgotten that the United States had sovereign rights as well as municipal laws, which were entitled to its respect. For very obvious reasons, the officers employed by Her Majesty's Government in raising recruits from the United States would, of course, be cautioned to avoid exposing themselves to the penalties prescribed by our laws, but the United States had a right to expect something more than

precautions to evade those penalties; they had a right to expect that the Government and officers of Great Britain would regard the policy indicated by these laws, and respect our sovereign rights as an independent and friendly Power.

It is exceedingly to be regretted that this international aspect of the case was overlooked. As to the officers of the British government, it is not barely a question whether they have or have not exposed themselves to the penalties of our laws, but whether they have in their proceedings violated international law, and offered an affront to the sovereignty of the United States. As functionaries of a foreign Government, their duties towards this country as a neutral and sovereign Power are not prescribed by our legislative enactments, but by the Law of Nations. In this respect their relation to this Government differs from that of private persons. Had there been no Acts of Congress on the subject, foreign Governments are forbidden by that law to do anything which would in any manner put to hazard our position of neutrality in respect to the belligerents.

The information which has been laid before the President, has convinced him that the proceedings resorted to for the purpose of drawing recruits from this country for the British army, have been instigated and carried on by the active agency of British officers, and that their participation therein has involved them in the double offence of infringing our laws and violating our sovereign territorial rights.

If there were sufficient reasons to believe, that by skilfully interposing private persons as ostensible actors in carrying out their arrangements, these officers have successfully shielded themselves from the penalties of our laws, still they, as well as their Government, if they have acted by its authority, are responsible as parties to a procedure which constitutes an international offence, of such a grave character as cannot be passed unnoticed by this Government.

While strenuously exerting its authority, as it has frequently done and is still doing, to prosecute and punish its own citizens for infringing its obligations of neutrality, it could not allow itself to pass lightly over the like offence committed by foreigners acting as the authorized agents of another Government.

The case which the United States feel bound to present to Her Majesty's Government, involves considerations not embraced in Lord Clarendon's reply to Mr. Buchanan's note. The question is not whether that Government has authorized, or any of its officers have done, acts for which the punishment denounced by our laws can be inflicted, but whether they participated in any form or manner in proceedings contrary to international law, or derogatory to our national sovereignty. It is not now necessary, therefore, to consider what technical defence these officers might interpose, if on trial, for violating our municipal laws.

This whole scheme of raising recruits for the British army within or from the United States, together with the agents and means used to carry it out, is now in the way of being developed, and I regret that the disclosures already made, appear to implicate so many of Her Majesty's officers, resident as well in the United States as in the adjacent British provinces. The President perceives with much regret that the disclosures implicate you in these proceedings; he has therefore preferred to communicate the views contained in this note to Her Majesty's Government through you, her Representative here, rather than through our Minister at London. The information in his possession does not allow him to doubt that yourself, as well as the Lieutenant-General of Nova Scotia, and several civil and military officers of the British Government of rank in the Provinces, were instrumental in setting on foot this scheme of enlistment, have offered inducements to agents to embark in it, and approved of the arrangements for carrying it out, which embraced various recruiting establishments in different cities of the United States, and made liberal provision for funds to be used as inducements for persons residing therein to leave the country for the purpose of enlisting in the British military service.

These arrangements are utterly incompatible with any pretence that they were designed merely to afford facilities to British subjects or other foreigners in this country to carry out their wishes, prompted purely by "sentiments of loyalty" or "political feeling" to participate with the allies in the existing war in Europe.

The information in the possession of this Government is so well established

by proof, and corroborated by so many public acts, that the President feels warranted in presenting to the British Government this conduct of Her Majesty's officers, as disrespectful to the United States and incompatible with the friendly relations between the two countries.

Among the solemn duties imposed upon the President, is that of maintaining and causing to be respected the sovereign rights of the United States, and to vindicate before the world their good faith in sustaining neutral relations with other Powers; and from this duty he will not allow himself to be diverted, however unpleasantly it may affect his personal or official relations with individuals.

The course which the President would deem it proper to take towards the implicated officers within the United States depends, in some measure, upon their relation to their Government in this matter. Lord Clarendon's note of the 16th of July does not make it quite clear that Her Majesty's Government is prepared to disavow the acts complained of, and to throw the entire responsibility of them upon its officers and agents. "Stringent instructions" were undoubtedly given to Her Majesty's officers "to guard against any violation of the United States' Law of Neutrality;" but it does not appear that respect for our territorial sovereignty, or the well-known policy of the United States as a neutral not specifically embraced in our municipal arrangements, was enjoined. The instructions might, therefore, be formally complied with, and these officers at the same time do acts which constitute an offence against our rights as a sovereign Power. Such acts it is believed they have committed, whether with or without the approval or countenance of their Government does not authoritatively appear. Lord Clarendon, it is apprehended, was not well informed as to the proceedings which have taken place in regard to the recruitments in this country, when he expressed the opinion that the persons engaged in carrying them out, whose conduct he does not deny was illegal, were self-constituted and unauthorized agents.

This Government has good reasons for believing that these agents had the direct sanction of British officers for their conduct, and were employed by them.

If these officers are sustained in what they have done, and authorized others to do in this matter, by their Government, the President will look to that Government, in the first instance at least, for a proper measure of satisfaction; but if their conduct is disavowed, and declared to have been contrary to the instructions, and without the countenance or sanction, of Her Majesty's Government, the course imposed upon him by a sense of duty will, in that case, be changed.

The object of this note is to ascertain how far the acts of the known and acknowledged agents of the British Government, done within the United States, in carrying out this scheme of recruiting for the British army, have been authorized or sanctioned by Her Majesty's Government.

I avail, &c.

(Signed) W. L. MARCY.

Inclosure 2 in No. 35.

Mr. Crampton to Mr. Marcy.

Sir,

Washington, September 7, 1855.

I HAVE the honour to acknowledge the receipt of your note of the 5th instant, upon the subject of alleged recruitments in the United States of soldiers for the British army.

As your note, although addressed to myself, refers in a great measure to a correspondence which has taken place between Lord Clarendon and Mr. Buchanan on the same subject, I have thought it expedient to defer replying at length to your present communication, until I shall have been more fully put into possession of the views of Her Majesty's Government in regard to all the matters to which it relates. I shall then do myself the honour of addressing to you a further communication, and I confidently trust that I shall be enabled altogether

to remove the unfavourable impression which has been created as to the motives and conduct of Her Majesty's Government and their officers, including myself, in regard to this matter.

I avail, &c.
(Signed) JOHN F. CRAMPTON.

No. 36.

The Earl of Clarendon to Mr. Buchanan.

Foreign Office, September 27, 1855.

MR. BUCHANAN, &c., will probably have received from his Government a copy of a letter which Mr. Marcy, &c., addressed to Mr. Crampton, &c., on the 5th of this month, on the subject of the communication which the Undersigned, &c., had the honour to make to Mr. Buchanan on the 16th of July, in reply to his note of the 6th of that month, complaining of the proceedings of British agents and British colonial authorities, in raising within the States of the Union recruits for the British military service, in violation, as was alleged, of the Act of Congress of the 20th of April, 1818.

The Undersigned had hoped, from the answer which he received from Mr. Buchanan on the 18th of July, that the explanations and assurances which he had given on this subject in his note of the 16th of that month, would have proved as satisfactory to the Government of the United States as they appeared to be to Mr. Buchanan; and it was, therefore, with no less disappointment than regret that Her Majesty's Government perused the letter addressed by Mr. Marcy to Mr. Crampton on the 5th instant, of which the Undersigned incloses a copy to Mr. Buchanan, in case he should not have received it from Washington.

In this letter, Mr. Marcy, laying less stress than Mr. Buchanan did upon the alleged infraction of the Municipal Laws of the United States, dwells chiefly upon the point, which was but slightly adverted to by Mr. Buchanan, of an assumed disregard of the sovereign rights of the United States on the part of the British authorities or the agents employed by them.

Her Majesty's Government have no reason to believe that such has been the conduct of any persons in the employment of Her Majesty, and it is needless to say that any person so employed would have departed no less from the intentions of Her Majesty's Government by violating international law, or by offering an affront to the sovereignty of the United States, than by infringing the Municipal Laws of the Union to which Mr. Buchanan more particularly called the attention of the Undersigned. Her Majesty's Government feel confident that even the extraordinary measures which have been adopted in various parts of the Union to obtain evidence against Her Majesty's servants or their agents by practices sometimes resorted to under despotic institutions, but which are disdained by all free and enlightened Governments, will fail to establish any well-founded charge against Her Majesty's servants. The British Government is fully aware of the obligations of international duties, and is no less mindful of those obligations than is the Government of the United States. The observance of those obligations ought, undoubtedly, to be reciprocal, and Her Majesty's Government do not impute to the Government of the United States that while claiming an observance of those obligations by Great Britain, they are lax in enforcing a respect for those obligations within the Union. But as this subject has been mooted by Mr. Marcy, Her Majesty's Government cannot refrain from some few remarks respecting it.

The United States profess neutrality in the present war between the Western Powers and Russia; but have no acts been done within the United States by citizens thereof which accord little with the spirit of neutrality? Have not arms and ammunition, and warlike stores of various kinds, been sent in large quantities from the United States for the service of Russia? Have not plots been openly avowed, and conspiracies entered into without disguise or hindrance in various parts of the Union, to take advantage of the war in which Great Britain is engaged, and to seize the opportunity for promoting insurrection in Her Majesty's dominions, and the invasion thereof by an armed force proceeding from the United States?

Her Majesty's Government have been silent on these matters, which they

did not consider indicative of the general feeling of the American people; for, remembering the many ties and sympathies which connect the people of the United States with the two powerful nations who are engaged in the present contest with Russia, they were convinced that a free, enlightened, and generous race, such as the citizens of the great North American Union, must entertain on the important questions at issue sentiments in harmony with those which animate not only the British and French nations, but the great mass of the nations of Western Europe; and Her Majesty's Government would not have adverted to the exceptional course pursued by a certain number of individuals if it had not been for the above-mentioned statements in Mr. Marcy's note.

But Her Majesty's Government think themselves entitled to claim the same credit for sincerity of purpose and uprightness of conduct which they readily allow to the Government of the United States, and to expect that their assurance should be received that as they have enjoined on all Her Majesty's servants a strict observance of the laws of the United States, so they have no reason to believe that any of Her Majesty's servants, or any agents duly authorized by those servants, have disregarded those injunctions in respect to the matters which form the subject of this note.

The Undersigned, &c.

(Signed)

CLARENDON.

No. 37.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, September 28, 1855.

HER Majesty's Government have received with extreme surprise the note which Mr. Marcy addressed to you on the 5th instant, and which is couched in terms that appear not to be justified by any acts which, to the knowledge of Her Majesty's Government, have been committed by British agents, and to be written in a tone unusual between the Governments of nations that entertain a mutual respect for each other, and the friendly relations between whom it is not intended to interrupt.

My note of the 16th of July to Mr. Buchanan, of which a copy was transmitted to you in my despatch of the 19th of that month, fully explained the views and the feelings of Her Majesty's Government, and expressed the regret that was sincerely felt if the law of the United States had been in any respects infringed. I have nothing to add to that note; but I have thought it my duty to address Mr. Buchanan on Mr. Marcy's communication in a note of which a copy is herewith transmitted to you.*

I am, &c.

(Signed)

CLARENDON.

No. 38.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, September 28, 1855.

WITH reference to my despatch of the 19th of July last, I transmit to you herewith for your information a copy of a note from Mr. Buchanan,† acknowledging the receipt of my note of the 16th of the above month, of which he states that he will have much satisfaction in transmitting a copy to his Government.

I am, &c.

(Signed)

CLARENDON.

No. 39.

Mr. Buchanan to the Earl of Clarendon.—(Received September 28.)

*Legation of the United States, London,
September 28, 1855.*

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States, has the honour to acknowledge the receipt of the note, dated on the 27th instant, from the Earl of Clarendon, Her Majesty's Principal Secretary of State for Foreign Affairs, in reference to the note of the 5th instant, addressed by Mr. Marcy, the Secretary of State, to Mr. Crampton, Her Britannic Majesty's Minister at Washington, on the subject of the enlistment and engagement of soldiers for the British army within the limits of the United States; and he will not fail to transmit to Washington a copy of his Lordship's note by to-morrow's steamer.

The Undersigned forbears to make any observations on this note, or to interfere in any manner with the correspondence commenced at Washington between the Secretary of State and Mr. Crampton, as he has received no instructions which would warrant him in so doing.

The Undersigned, &c.

(Signed) JAMES BUCHANAN.

No. 40.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, September 28, 1855.

WITH reference to my despatch of this day's date,* inclosing a copy of a note which I have addressed to the United States' Minister at this Court respecting the complaint of the United States' Government of the proceedings of British agents in enlisting men in the United States for the British service, I inclose herewith for your information a copy of a note from Mr. Buchanan† acknowledging the receipt of my note, a copy of which he states that he will transmit to Washington by the mail of to-morrow.

I am, &c.

(Signed) CLARENDON.

No. 41.

Consul Mathew to the Earl of Clarendon.—(Received October 15.)

(Extract.)

Philadelphia, October 2, 1855.

I HAVE hitherto abstained from troubling your Lordship with the details of the trials in this city for alleged violations of the Neutrality Laws, in the desire of reporting, at the same time, their termination, which repeated postponements, mainly on the part of the prosecution, have precluded me, until now, from doing.

Finding, from the personal allusions of the United States' District Attorney Van Dyke, at the first hearing before the Commissioner, and from the false statement made by one of his witnesses (William Jones), that efforts were making to implicate me in my official capacity in the matter, I requested the professional attendance of Mr. B. Rush to watch the further proceedings, and I addressed to him the inclosed letter.

Of the individuals brought to trial in this city, Mr. Bucknall, a native of Ireland and a Civil Engineer, had no intention of obtaining military service. He was casually employed to carry some letters by Mr. Howe, and had evidently been arrested on erroneous information or suspicion.

Mr. Perkins is an Englishman, resident here for some months. His use of

the names of gentlemen to whom he was unknown, and his various declarations of being in the employment of the British Government, were so absurd as to place him below contempt.

Mr. Hertz, a Jew, and a native of Denmark, first made himself known, I believe, to Mr. Crampton, with some alleged offers on behalf of his countrymen, and subsequently forced his proposals on Mr. Howe, who distinctly warned him, I understand, of the nature of the Neutrality Laws of the United States, and of the desire entertained that they should be carefully respected.

The entire conduct, however, of Mr. Hertz, who publicly opened a recruiting office opposite the Exchange, and the immediate arrest of the volunteers, who, on two separate occasions, had started under his auspices for Halifax, and who suffered a lengthened imprisonment under the pretence of being kept as witnesses against him, has led me to entertain the conviction that he was employed to offer his services with the sole design of defeating the object in view, and of deterring the German population from endeavouring to reach British soil.

After many attempts to involve me in his alleged arrangements, he endeavoured, by threats of implication, to extort money from me.

I find that one or two harmless replies he received at first from me are in the hands of the United States' District Attorney.

He will not, I apprehend, be brought up for sentence, though convicted.

On the extraordinary proceedings at his trial it is scarcely proper for me, perhaps, to make any remark.

I have no knowledge of the chief witnesses, nor of the facts to which they depose, beyond the statement of a Charles Burgthal (a man who does not speak English), that he dined with Mr. Howe at Jones's Hotel in this city, which I know, and Mr. Howe's bill proves, to be false.

I regret to have to draw your Lordship's notice to the difference in Judge Kane's opinion on the 22nd of May and the 27th of September.

Inclosure in No. 41.

Consul Mathew to Mr. Rush.

*Her Britannic Majesty's Consulate,
No. 9, Pear Street, Philadelphia, March 29, 1855.*

My dear Sir,

I PERCEIVE, with surprise, by this morning's journals that personal allusion to me has been made yesterday during the proceedings before the United States' Commissioner, respecting the alleged violation of the Neutrality Laws.

I shall therefore be much obliged to you to attend professionally on my behalf during the further hearing of the matter, and to state to the Commissioner that the evidence (as reported) of the witness, Wm. Jones, is, as far as I am concerned, however immaterial it may be, incorrect.

I am unwilling to suppose that this man came to my office with the discreditable object of involving me in any illegality, but I conclude him to be a person who, after having unsuccessfully, but with peculiar tenacity and with loud assertions of loyal patriotism, urged me to send him to serve at Halifax, stated there was an office in Third-street, where he would at once be "taken" and shipped, and wished me to give him some note there. My negative reply was—"If there is such an office, I know nothing about it; it must be some private affair."

Many of Her Britannic Majesty's subjects have expressed to me their natural desire to serve their country in a war which may emphatically be said to have emanated from the voice of the people; and a large number of natives of Continental Europe and others have also made known to me their wishes respecting a war which they view as tending to advance the constitutional liberties of man, and I hold myself free to assist, as far as I can with strict legality, my countrymen in their laudable object, just, as I doubt not, every American in Europe would aid a poor fellow-citizen towards his home were the United States at war; but cognizant, as I am, of the Neutrality Laws of the United States, I shall most carefully guard against infringing them.

On the other hand I feel well assured of receiving full protection against ungrounded insinuations, and every courtesy.

I merely desire to add, with reference to the statement of an evening journal, that there is no British agent or functionary in this State but me.

Believe me, &c.

(Signed) GEO. B. MATHEW.

No. 42.

Mr. Crampton to the Earl of Clarendon.—(Received October 29.)

My Lord,

Washington, October 15, 1855.

I HAVE the honour to inclose the copy of a despatch which I have received from Mr. Mathew, Her Majesty's Consul at Philadelphia, transmitting to me the report of certain proceedings which have been taken in the United States' District Court at that place, by the District Attorney, in the matter of Hertz, who was lately found guilty of having violated the Neutrality Laws, by enlisting recruits for the British army.

Your Lordship will not peruse without surprise the letters which have been read in open Court by the District Attorney, being instructions addressed to him by Mr. Cushing, the Attorney-General of the United States. Your Lordship will perceive that Mr. Cushing has thought proper to direct his comments upon your Lordship's note to Mr. Buchanan of the 16th of July last, to be read in Court, and that he has gone so far as to apply the terms "malefactors screened from justice by your Lordship's ingenious devices," to the Diplomatic and Consular Agents of the British Government in this country.

With regard to the pretended confession of Hertz, I trust that it is almost unnecessary for me to assure your Lordship that this man's statements as to the substance of, or words of, his conversations with me is a tissue of audacious and deliberate falsehoods.

I am not less convinced that his assertions in regard to his communications with Mr. Mathew are totally false.

The motives of Hertz for these statements are, indeed, too apparent to escape the most casual observer. The whole of his trial has evidently been a mock proceeding, in which the defendant has been in collusion with the plaintiffs, and as the real object of the proceedings against Hertz are now avowed by the District Attorney to be not his conviction, but the implication of Her Majesty's officers in the offence of which he is accused, I leave it to your Lordship to draw your own conclusion in regard to the motives and objects of the Government of the United States in bringing forward this confession.

I have the honour to inclose a copy of the answer which I have returned to Mr. Mathew's despatch, recommending him for the present to refrain from taking legal steps for refuting the calumnies with which he has been assailed.

It is evident that from the directions given by Mr. Cushing to the District Attorney in regard to Mr. Mathew, that Mr. Mathew would not be allowed an opportunity of defending himself in a manner sufficiently direct or consistent with his position to be of real avail; and I have, therefore, thought it better that he should reserve his defence for communication through Her Majesty's Government to that of the United States, so soon as the latter shall have preferred charges against him through the proper official channels, founded upon the assertions of Hertz, or others to the same effect.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 42.

Consul Mathew to Mr. Crampton.

(Extract.)

Philadelphia, October 13, 1855.

IT was with unbounded surprise that I perused in this day's "Pennsylvanian," the report of the proceedings yesterday in the United States' District Court of this city.

I desire to submit to your Excellency the impropriety of the language and conclusions respecting me in the United States' Attorney-General's letter of September 17, 1855.

The hearing before a United States' Commissioner, in the first place, is wholly different from any proceeding before a Court of Judicature: it is simply a Court of full and fair inquiry. The evidence before it, if impugned, will be weighed with consequent justice.

A man, apparently sent to entrap me, had urged upon me, with many protestations, to send him to Halifax, or at least to give him a recommendation to some place in this city where he could be enlisted. On my refusal and statement that I knew of no such place, and that none such could exist with the knowledge and sanction of any British authorities, he left me; but in his evidence before the United States' Commissioner, falsely stated that I had named to him a recruiting office in South Third Street.

With regard to the alleged "confession" of Henry Hertz, I can easily judge by the falsehoods he has told of my words and acts, and, to my knowledge, of Mr. Bucknell's, who recently left this country for Ireland, of the probable degree of his veracity respecting your Excellency and Mr. Howe.

The first time I saw Mr. Hertz he inquired if I had received a letter for him from your Excellency. At his request I mentioned this to you; and on his return some days after to my office, I made known to him, without further conversation, your Excellency's reply, that you had received no commands from Her Majesty's Government on the subject of his communication.

I subsequently, at Mr. Howe's request, made inquiry as to his character, and communicated to that gentleman the unfavourable impression I had received. But I did not see him again until the day after Mr. Howe's departure, when he came to my office, and expressed his surprise Mr. Howe had not left with me some money for him.

He urged upon me in vain to advance him funds, and I pointedly refused, to his apparent annoyance, to enter into his arrangements, or to have any knowledge of his business with Mr. Howe.

It would appear from his own statement of his object, that he was specially engaged or employed to implicate me in illegal acts; that failing therein he has now recourse to falsehood.

At his earnest request I transmitted a sealed letter to Mr. Howe, and handed him a reply, containing, I believe, money, for which he gave a receipt made out to Mr. Howe, and inclosed by me to him.

On a second occasion I declined to give him the money, though merely the channel of transfer; and the amount was sent to the proprietor of an hotel, from whose bookkeeper he received it.

I persisted in knowing nothing of his affairs, gave him no counsel or advice, and was wholly ignorant of the recruiting or departure of his men.

On one occasion he forced himself into my presence without sending up his name, in my bedroom; stated he was going on most important business to see Mr. Howe at New York; and ended by asking me, under many oaths and protestations, to lend him as a private loan fifty dollars, which I did to get rid of him. He has not fulfilled his pledge of repayment.

On his arrest he commenced a series of threatening letters, with the view of extorting money, which I placed, with full explanations, in the hands of my legal adviser, Mr. Rush.

I further refused, through Mr. Sharwood, the request he had made to see him.

After his trial he had the impertinence to enter my office, and I refused to

hold any communication with him. He then stated to Mr. Bucknell that "would still find means to catch me, and to be revenged."

By referring to the letters produced at his trial from Messrs. Lumley and Stanley, and now reproduced in his "confession," your Excellency will perceive, that though the latter pretended document is sworn on October 1, all the matter on which it is founded must have been in Mr. Van Dyke's possession previous to the trial.

As I am desirous of avoiding unjust imputations in the community in which I reside, I propose, unless I receive by Tuesday the expression of your Excellency's desire to the contrary, to take some step by affidavit or otherwise, to deny the chief allegations falsely made by Henry Hertz.

I trust to find that in your Excellency's opinion I have done nothing in these premises incorrect or derogatory to my honour.

Inclosure 2 in No. 42.

Extract from the "Pennsylvanian" of October 13, 1855, containing Hertz's Confession.

[See Report of Trial, United States v. Henry Hertz, pp. 37—116.]

Inclosure 3 in No. 42.

Mr. Crampton to Consul Mathew.

Sir,

Washington, October 14, 1855.

I HAVE to acknowledge the receipt of your despatch of the 13th instant, inclosing a report of certain proceedings which have taken place in the United States' District Court at Philadelphia in relation to the trial of Hertz on the charge of enlisting men in the United States for the British army.

I have perused this report with the same feelings of surprise as yourself, as well at the course which the Law Officers of the United States have thought proper to adopt in this matter, as at the statements contained in what is called the "confession" of Hertz.

The audacious falsehoods which this man has ventured to put forward in regard to myself, would of themselves be sufficient to convince me of the falsehood of those which he has made regarding you or Mr. Howe; and I should imagine that such statements, from such an individual, would meet with no credit from any reasonable or respectable person.

It is not unnatural that you should wish to have an opportunity of clearing yourself from such imputations, nor should I feel at liberty to direct you not to take such measures as may be within your power to do so.

The matter to which Hertz's trial refers is, however, under discussion between Her Majesty's Government and that of the United States, and I have deferred, in my own case, taking any public notice of such statements as those of Hertz, or of the proceedings of the United States' authorities in this case, until such time as a fitting opportunity shall be afforded to me for doing so in the proper quarter, and in a manner more complete than can be afforded by indirect action in an American court of justice, and I would recommend you to pursue the same course.

I have in the meantime forwarded a copy of your despatch to Her Majesty's

Government, and I have satisfaction in assuring you that I can see nothing in any of your proceedings in regard to this matter which appear to me to be incorrect, or derogatory to your office.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 43.

Consul Mathew to the Earl of Clarendon.—(Received October 29.)

(Extract.)

Philadelphia, October 16, 1855.

UPON the rejection of the motion for a new trial, made on behalf of Hertz, Mr. Van Dyke, the United States' District Attorney who had prosecuted him, read, in alleged mitigation of any future sentence upon him, a document signed, but evidently not drawn up by Hertz, as his "confession," in which Her Majesty's Minister at Washington and I are placed, with other gentlemen, under serious accusations.

Having fully made known to Mr. Crampton (who informs me that a copy of my despatch will be transmitted to your Lordship) the particulars of any communications on my part with Hertz, I will confine myself to the plain declaration that his representations of my words and acts are grossly untrue.

I have abstained, under Mr. Crampton's advice, from taking any steps by affidavits or otherwise to refute this tissue of perjuries, but I am perfectly prepared to do so.

I had cause at an early date to suspect that Hertz (who now avows his first aim to have been to receive money at my hands, that is, to implicate me) was employed for that purpose. I am not, therefore, surprised to find that the District Attorney, Van Dyke, had in his possession, previous to the pretended trial, various private papers of Hertz, and among them the letters of Mr. Lumley and of Mr. Stanley, referred to in his "confession" under date of October 1.

As Her Majesty's Consul for Pennsylvania I am amenable by law to the United States' Courts; but I conceive that, for this very reason, I am entitled to protection against extraneous accusations, in lieu of being assailed by the chief legal functionary in this State through a witness of whose perjury he can scarcely be deemed ignorant, and in a mode which seems as if designed to preclude the possibility of defence or reply.

I must beg to draw your Lordship's attention to the letters of the Attorney-General of the United States, Mr. Cushing, produced in Court by Mr. Van Dyke.

Your Lordship will regret to observe that this high functionary has omitted the important fact that, in deference to this country, all enlistments for the Foreign Legion were wholly stopped throughout the British North American Colonies, thus depriving these prosecutions of the possibility of any beneficial ulterior result.

Mr. Cushing has also thought fit to draw the erroneous inference of the employment of Her Majesty's Consuls in these enlistments, and cannot assuredly find any warrant for the allegation that your Lordship desired the violation (in spirit, if not in letter) of the United States' laws. After pointing me out as a proper object of suspicion, he further endeavours to deprive me of what seems to me the undoubted right of international comity, that of denying the imputations cast on my official character by a perjured witness.

Report—United States v. Henry Hertz, et al.—(Communicated to the Earl of Clarendon by Mr. Buchanan, November 1.)

In the District Court of the United States for the Eastern District of Pennsylvania.

United States v. Henry Hertz and Emanuel C. Perkins, charged with Hiring and Retaining Persons to go beyond the Jurisdiction of the United States, with the intent to Enlist in the British Foreign Legion, for the Crimea.

September 21, 1855.

Before the HONOURABLE JOHN K. KANE.

The defendants were arraigned on several Bills of Indictment, to which they severally pleaded Not Guilty.

A jury is called, and sworn or affirmed as follows :

1. Jeremiah Byerly, Carpenter, Front Street below Catherine, Philadelphia.
2. John Baird, Marble Mason, Spring Garden Street, above 13th, Philadelphia.
3. Joshua Fry, Gentleman, Centre P. O., Lehigh County, Pennsylvania.
4. John G. Hensell, Collector, Crown Street, above Vine, Philadelphia.
5. Michael D. Kelly, Tailor, Division Street, below 12th, Philadelphia.
6. Cornelius McCauley, Manufacturer, No. 119, Lombard Street, Philadelphia.
7. John F. Parke, Farmer, Radnor P. O. Delaware County, Pennsylvania.
8. George Reese, Gentleman, Race Street, above 3rd, Philadelphia.
9. John Stewart, Farmer, Carlisle, Cumberland County, Pennsylvania.
10. John Wilbank, Innkeeper, Rugan Street, above Callowhill Street, Philadelphia.
11. Joseph Lippencott, Carpenter, Vernon Street, above 10th, Philadelphia.
12. Charles R. Able, Manufacturer, No. 478, North Fourth Street, Philadelphia.

The indictments were similar in their character, and related to the hiring of different persons.

The following is a copy of one of the indictments.

In the District Court of the United States in and for the Eastern District of Pennsylvania, of May Sessions, in the year of our Lord one thousand eight hundred and fifty-five.

Eastern District of Pennsylvania, ss.

First Count.—The Grand Inquest of the United States of America, inquiring for the Eastern District of Pennsylvania, upon their oaths and affirmations respectively, do present, that Henry Hertz, late of the District aforesaid, yeoman, and Emanuel C. Perkins, late of the District aforesaid, yeoman, heretofore, to wit: on the twentieth day of February, in the year of our Lord one thousand eight hundred and fifty-five, in the District aforesaid, and within the jurisdiction of this Court, with force and arms, did hire and retain one William Budd, to enlist himself as a soldier, in the service of a foreign Prince, State, Colony, District, and People, contrary to the form of the Act of Congress in such case made and provided, and against the peace and dignity of the United States.

Second Count.—The Grand Inquest of the United States of America, inquiring for the Eastern District of Pennsylvania, upon their oaths and affirmations respectively, do further present that Henry Hertz, late of the District aforesaid, yeoman, and Emanuel C. Perkins, late of the District aforesaid, yeoman, heretofore, to wit: on the twentieth day of February, in the year of our Lord one thousand eight hundred and fifty-five, at the District aforesaid, and within the territory and jurisdiction of the United States, and of this Honourable Court, with force and arms did hire and retain William Budd, to enlist and enter himself as a soldier in the service of a foreign Prince, State, Colony, District, and People, to wit: the service of Her Most Gracious Majesty the Queen of Great Britain and Ireland, contrary to the form of the Act of Congress in such case made and provided, and against the peace and dignity of the United States of America.

Third Count.—The Grand Inquest of the United States of America, inquiring for the Eastern District of Pennsylvania, upon their oaths and

affirmations respectively, do further present, that Henry Hertz, late of the District aforesaid, yeoman, and Emanuel C. Perkins, late of the District aforesaid, yeoman, heretofore, to wit: on the twentieth day of February, in the year of our Lord one thousand eight hundred and fifty-five, at the District aforesaid, within the territory and jurisdiction of the United States, and within the jurisdiction of this Court, with force and arms, did hire and retain William Budd to go beyond the limits and jurisdiction of the United States, with the intent of him, the said William Budd, to be enlisted and entered as a soldier, in the service of a foreign Prince, State, Colony, District, and People, contrary to the form of the Act of Congress in such case made and provided, and against the peace and dignity of the United States of America.

Fourth Count.—The Grand Inquest of the United States of America, inquiring for the Eastern District of Pennsylvania, upon their oaths and affirmations respectively, do further present, that Henry Hertz, late of the said District, yeoman, and Emanuel C. Perkins, late of the District aforesaid, yeoman, heretofore, to wit: on the twentieth day of February, in the year of our Lord one thousand eight hundred and fifty-five, at the District aforesaid, and within the territory and jurisdiction of the United States, and within the jurisdiction of this Honourable Court, with force and arms, did hire and retain William Budd, to go beyond the limits and jurisdiction of the United States, with the intent of him, the said William Budd, to be enlisted and entered as a soldier, in the service of a foreign Prince, State, Colony, District, and People, to wit: the service of Her Most Gracious Majesty the Queen of Great Britain and Ireland, contrary to the form of the Act of Congress in such case made and provided, and against the peace and dignity of the United States of America.

Fifth Count.—The Grand Inquest of the United States of America, inquiring for the Eastern District of Pennsylvania, upon their oaths and affirmations respectively, do further present, that Henry Hertz, late of said District, yeoman, and Emanuel C. Perkins, late of the District aforesaid, yeoman, heretofore, to wit: on the twentieth day of February, in the year of our Lord one thousand eight hundred and fifty-five, at the District aforesaid, within the territory and jurisdiction of the United States, and within the jurisdiction of this Court, with force and arms, did hire and retain William Budd, to go beyond the limits and jurisdiction of the United States, with the intent of him, the said William Budd, to be enlisted and entered as a soldier in the service of a foreign Prince, State, Colony, District, and People. The said Henry Hertz and Emanuel C. Perkins, at the time they so hired and retained the said William Budd to go beyond the limits and jurisdiction of the United States, with the intent as aforesaid, not being the subject or citizen of any foreign Prince, State, Colony, District, or People, transiently within the United States, and said hiring and retaining not being on board any vessel of war, letter of marque, or privateer, which at the time of the arrival within the United States, of such vessel of war, letter of marque, or privateer, was fitted and equipped as such, and the said William Budd, so hired and retained, not being a subject or citizen of the same foreign Prince, State, Colony, District, and People, transiently within the United States, enlisting and entering himself to serve such foreign Prince, State, Colony, District, or People, on board such vessel of war, letter of marque, or privateer, the United States being at peace with such foreign Prince, State, Colony, District, and People, contrary to the form of the Act of Congress in such case made and provided, and against the peace and dignity of the United States of America.

Sixth Count.—The Grand Inquest of the United States of America, inquiring for the Eastern District of Pennsylvania, upon their oaths and affirmations, do present that Henry Hertz, late of said District, yeoman, and Emanuel C. Perkins, late of the District aforesaid, yeoman, heretofore, to wit: on the twentieth of February, in the year of our Lord one thousand eight hundred and fifty-five, at the District aforesaid, and within the territory and jurisdiction of the United States, and within the jurisdiction of this Honourable Court, with force and arms, did hire and retain William Budd, to go beyond the limits and jurisdiction of the United States, with intent of him, the said William Budd, to be enlisted and entered as a soldier in the service of a foreign Prince, State, Colony, District, and People, to wit: in the service of Her Most Gracious Majesty the Queen of Great Britain and Ireland. The said Henry Hertz and Emanuel C.

Perkins, at the time they so hired and retained the said William Budd, to go beyond the limits and jurisdiction of the United States, with the intent as aforesaid, not being a subject or citizen of the said Queen of Great Britain, transiently within the United States, and said hiring and retaining not being on board any vessel of war, letter of marque, or privateer, which at the time of its arrival within the United States was fitted and equipped as such, and the said William Budd so hired and retained, not being a subject or citizen of Her Most Gracious Majesty the Queen of Great Britain and Ireland, transiently within the United States, enlisting and entering himself to serve the said Queen of Great Britain, on board such vessel of war, letter of marque, or privateer, the United States being at peace with the said Her Most Gracious Majesty the Queen of Great Britain and Ireland, contrary to the form of the Act of Congress in such case made and provided, and against the peace and dignity of the United States of America.

JAMES C. VAN DYKE,

Attorney for the United States for the Eastern District of Pennsylvania.

J. C. Van Dyke, Esq., Attorney for the United States, opened the case on the part of the prosecution, in substance, as follows :

May it please the Court—Gentlemen of the Jury : It is a fact which will be judicially noticed by this Court and jury, that during the year 1855, as for some time previous, the Crimea has been the site of a sanguinary and melancholy conflict between some of the most powerful nations of the globe.

That conflict has been conducted principally by the British, French, and Turks on one side, and by Russia on the other, and has become part of the political and legal history of nations.

It is not important for us to inquire into the cause of this conflict, nor is it necessary for us to trace the various military or political manœuvres by which it has been conducted, much less to endeavour to ascertain or speculate as to the probable result of an attack on the part of the allies, producing those misfortunes to the British Government which they have endeavoured to retrieve by a violation of law in this country.

We do not deem it in any degree important to the American people that the combined forces of Southern Europe should be successful against a single nation of the North, in maintaining her asserted rights. In this free and republican country, the home ordained by Providence for the oppressed of all nations, we have very little to do with the struggles for supremacy and power by the different crowned heads of the Old World. The various schemes which have been adopted for the support of a balance of power by the potentates of Europe, never has, and I am of opinion never will, advance those republican institutions which it is our pleasure and duty to foster. On the contrary, those combinations which have been formed in support of such balance, has at all times been made the instrument of retarding in Europe the progressive democratic spirit of the age, and of binding the masses more firmly beneath the yoke of an overgrown and decaying aristocracy ; and although the popular pulse in this country is manifestly against all war which originates in the desire to perpetuate or extend any other than a republican form of government, yet a proper regard for our national integrity forbids us to tolerate on the part of those residing amongst us, any intermeddling in the disputes of other nations, where those disputes do not interfere with or concern the legitimate objects and manifest destiny of our own wide-spreading institutions. Except in such cases our policy is peace, and we should endeavour to keep ourselves free from all political connections which might in any way involve us in the conflict amongst European Powers—not so much for the reason that we are not ever ready to defend our rights by an effectual resort to arms, but because our implied and Treaty obligations require us firmly and faithfully to maintain an impartial neutrality.

By prudence and an entire good faith in observing the position of an independent neutral nation, we increase our own happiness and prosperity at home, and secure to ourselves the right to demand a proper respect abroad.

A neutral nation cannot with propriety interfere with any matter of dispute between foreign belligerent parties, nor can it furnish aid to either, without

justly incurring the danger of the displeasure of the other. The propriety of a nation not directly involved in an existing war, in maintaining this position of strict impartiality, is manifest. It is protection and preservation both to our citizens and our property.

This has been the doctrine of all neutral Powers; and although for centuries disregarded by European Governments, in violation not only of the well-settled Laws of Nations, but also of highly penal statutes, it has ever been regarded by American statesmen as a cardinal element in American diplomacy.

The benefits of a strict observance of neutrality are too great and too many to be enumerated in the trial of the issue which I am about to present to you. Suffice it to remark, that so great are those benefits, that from the beginning of our Government we have considered it the duty of every resident in this country, whether Minister Plenipotentiary, Consul, or private citizen, to inquire the character and extent of our laws upon this subject, and carefully to observe them.

No one residing here has a right to violate the national sovereignty of the United States, by setting those laws at defiance, by the perpetration of acts derogatory to our character as an independent, impartial, neutral nation; and any neglect of this duty renders him amenable to the laws of the land. As an example of the early feeling of our Government upon this subject, Mr. V. read the proclamation of President Washington, in 1793, in relation to "the war then existing between Austria, Prussia, Sardinia, Great Britain, and the Netherlands, on the one part, and France on the other, stating that the duty and interest of the United States require that they should, with sincerity and good faith, adopt and pursue a conduct friendly and impartial toward the belligerent Powers.

"I have therefore thought fit, by these presents, to declare the disposition of the United States to observe the conduct aforesaid, toward those Powers respectively, and to exhort and to warn the citizens of the United States carefully to avoid all acts and proceedings whatsoever which may tend in any manner to contravene such disposition.

"And I do hereby, also, make known that whosoever of the citizens of the United States shall render himself liable to punishment or forfeiture by the Laws of Nations, by combatting, aiding, or abetting hostilities against any of the said Powers, or by carrying to any of them those articles which are deemed contraband by the modern usage of nations, will not receive the protection of the United States against such punishment or forfeiture; and further, that I have given instructions to those officers to whom it belongs, to cause prosecutions to be instituted against all such persons who shall, within the cognizance of the Courts of the United States, violate the Laws of Nations with respect to the Powers at war, or any of them."

The justice of the principles contained and proclaimed in this message, no doubt produced, in 1794, the passage of the first law for the protection of our neutrality.

That Act is the same in its principal features as the English statute 9 Geo. 2, ch. 30, secs. 2 and 29; ch. 17, sec. 2.

Mr. Van Dyke then referred to the various Acts of Congress which had at different times been enacted for the purpose of imposing punishment upon those who should violate the national sovereignty of the United States, by interfering with the rights of belligerents.

The Act of June 5, 1794, c. 50, punishes any citizens of the United States for accepting and exercising a commission to serve in any war, on land or at sea, in the service of any foreign prince or State, and prohibits any person within the territory or jurisdiction of the United States enlisting or entering himself, or hiring or retaining another person to enlist or enter himself, or to go beyond the limits or jurisdiction of the United States, with the intent to be enlisted or entered in the service of any foreign Prince or State as a soldier, or as a mariner or seaman on board any vessel of war, letter of marque, or privateer, and forbids the fitting out, or attempting the fitting out, of ships of war within any of the waters of the United States, or procuring the same to be done. This Act also forbids any person within the territory of the United States increasing or augmenting, or procuring the increase or augmentation, or knowingly being concerned therein, of the force of any ship of war, cruiser, or other armed vessel

or State, the same being at war with any other foreign Prince or State with whom the United States are at peace.

Sec. 5. Prohibits all persons within the territory or jurisdiction of the United States to begin or set on foot, or provide or prepare, the means for any military expedition or enterprise, to be carried on from thence against the territory or dominions of any foreign Prince or State with whom the United States are at peace.

Sec. 6. Makes the offence indictable in the District Court of the United States.

Sec. 7. Authorises the President of the United States to employ the armed forces of the United States to prevent the commission of the offences declared against by the neutrality laws of the United States.

Sec. 8. Authorises the President to use the armed forces of the United States to compel the departure of any armed ship of any foreign Prince in all cases in which, by the Laws of Nations or the Treaties of the United States, they ought not to remain in the United States.

This Act was to continue in force for two years, or until the next Congress thereafter. In 1797 the Act was further extended for the period of two years.

On the 24th April, 1800, Congress, by an enactment, made the Act of 1794 perpetual.

The next enactment was March 3, 1817, c. 58, by which new punishment and penalties were imposed for a violation of the provisions of the Act of 1794.

Mr. V. said he referred only to the substance of these Acts of Congress, without delaying the Court to read from the books, because, having been repealed by the law under which the present bills of indictment are framed, they are important for two reasons only:—

1. They show in a most conclusive manner the policy of our Government in maintaining a strict neutrality on the international affairs of European Powers.

“Peace with all nations, entangling alliances with none”—has ever been the motto, not only of the Government but of the people of this country.

By adopting and strictly observing this just and fair policy, the United States has, in times of intense political excitement, and bloody and disastrous warfare in other countries, cultivated peace with all nations, and secured at all times national repose and commercial prosperity at home, and respect abroad. By fulfilling with a strict impartiality our neutral responsibilities towards belligerent Powers, we have in times past avoided the disasters which have befallen other free Governments, and by continuing so to do in future, we will continue able to present to mankind an example of republican integrity worthy of imitation by the civilised world.

2. They are important—because, from their peculiar similarity with the Act of 1818, under which these defendants now on trial are indicted, we are enabled more fully to comprehend the meaning of the several judicial constructions which have been given to them, especially in cases of prize, and to ascertain the bearing of such construction upon the Act of 1818.

In 1818 the Congress of the United States felt the importance of remodelling the law upon the subject of American interference in disputes between foreign nations, and in an Act passed on 20th April, which repeals all former laws upon the subject, adopted a most wholesome law, which, though varying somewhat from former enactments, is the same in all essential points. Mr. Van Dyke referred to this Act at length.

The defendants are indicted under the provisions of the second section of this Act. The grand jury have found several bills of indictment against them for the various violations of this law, which seemed to them susceptible of the most easy proof.

It will be observed that the crime mentioned in this section consists in the doing of various acts. You will be instructed by the Court that you must be satisfied of certain propositions which it will be my duty to submit to your consideration.

First.—It will be necessary for the Government to satisfy you that the act complained of was committed within the territory of the United States.

Second.—That the defendants, or either of them, enlisted or entered himself respectively, in the service of a foreign Prince, State, Colony, district or any foreign Prince or State, or belonging to the subject of any foreign Prince

or people, as a soldier, or as a mariner or seaman on board any vessel of war, letter of marque, or privateer.

Third.—That the defendants, or either of them, hired or retained another person to enlist or enter himself in such service.

Fourth.—That the defendants, or either of them, hired or retained another person to go beyond the limits or jurisdiction of the United States, with the intent to be enlisted or entered in such services.

Upon the first point I remark, that if from the evidence you are satisfied that the acts complained of were not committed within the limits of the United States, and also within the limits of the jurisdiction of this Court, which is bounded by those counties forming the eastern district of Pennsylvania, it will be your duty to acquit both the defendants on all the bills now laid before you.

Upon this point, however, gentlemen, I think you will have no trouble. The evidence will be conclusive that whatever was done by the defendants was done within the eastern district of Pennsylvania.

Upon the second point you are relieved from any inquiry, there being no charge in the indictments that the defendants, or either of them, enlisted himself in any foreign services.

Having found, however, the first point in favour of the Government, your investigations will be directed to the third and fourth points of inquiry, viz.: Did the defendants, or either of them, at the various times specified in the various bills under consideration, hire or retain any or all of the persons mentioned to be enlisted or entered in a foreign service, or did they hire or retain any or all of the persons mentioned in these bills to go beyond the limits of the United States, with the intent to be enlisted or entered in such foreign service. If either, or both, then you will find them, or either of them, guilty on such counts in the indictments as are applicable to the facts upon which you base your conclusions.

The Court, I am of opinion, will inform you that the intent mentioned in the Act refers to the intention of the party enlisted, hired or retained. Not that such an intent must be an absolute determination to enlist when arriving beyond the limits of the United States—but the crime charged against the defendants being the hiring of some other person, which other persons must have the intent, it is sufficient ground for conviction, if, from all the testimony, you are satisfied that the defendants at the time they so hired or retained any other person, believed it to be the *bonâ fide* intention of the person so hired or retained, to enlist or enter such foreign service when he should arrive beyond the limits of the United States. Upon this point, however, gentlemen, you will have no difficulty upon many of the bills, as I shall be able to prove to your entire satisfaction, first, that the defendant Hertz thought the recruit had such intention; and, secondly, that the recruit did in fact agree to depart from our jurisdiction with intent to enlist.

Having thus briefly reviewed the political policy of our Government, and the law applicable to the present prosecution, permit me to call your attention to the facts as I shall be able to present them to your serious consideration. So far as applicable to the prosecution they are easily understood.

I have said that the war in the Crimea was conducted by the British, French, and other nations, as allies, against the single power of Russia. I have said that the consequences of that war had been disastrous to the besieging parties, and that the signs of the times indicated a still more humiliating fate. The English army having met the most serious losses, the Government of Great Britain, in direct violation of her duty towards us, and with a design of misleading those residents of the United States who did not fully comprehend the nature of our laws, devised a plan for the purpose of partially regaining the position and standing which, in the absence of the proper exercise of the advanced military experience of the age, they had lost.

A plan for this purpose was adopted and attempted to be carried out by his Excellency John F. Crampton, the Minister Plenipotentiary of Her Majesty, assisted by several agents of the British Government, within the territory and jurisdiction of the United States; and I think you will be satisfied Mr. Crampton thus acted with the knowledge and approbation of his Government. This high functionary of that Government made contracts and agreements with certain persons, known in this country as able and efficient officers in the various

conflicts which have recently taken place on the continent of Europe. The parties thus contracted with were to commence a system of recruiting men within our territorial limits.

There will be examined before you two or three individuals who were engaged in carrying out this plan, and who, on various occasions, had interviews with Mr. Crampton, and with him adjusted and perfected the programme for this enlistment. Mr. Howe, Sir Gaspard Le Marchant, Governor of Nova Scotia, Mr. Wilkins, his Secretary, Mr. Barclay, the British Consul at New York, and other British representatives in power, also assisted in and directed this flagrant violation of our law.

In the perfecting of this general design Mr. Howe came to Philadelphia, and endeavoured to make an arrangement with Colonel Rumberg, well known here for many years as one of the publishers of the "German Democrat," and now known as one of the editors of the "German Adopted American," published in Philadelphia and Pottsville. Mr. Howe brought to this gentleman a Proclamation, which will be submitted to you, calling for enlistments within the United States to serve in the Foreign Legion, then forming at Halifax. Colonel Rumberg was at first pleased with the proposition, and felt disposed to lend his aid in its furtherance, but afterwards, upon being informed that such enlistments were a violation of the laws of the United States, and that he might get into difficulties, he abandoned it.

He however translated the Proclamation for Mr. Howe, and having met Mr. Hertz and Mr. Howe together at Jones's Hotel, he published the Proclamation in his paper for Mr. Hertz.

Arrangements were made by Mr. Howe and Mr. Crampton with the defendant Hertz, who, for them, undertook the enlistment of men at his office, which he opened for that purpose, at 68, South Third Street. Mr. Hertz published and paid for the Proclamation for these recruits in various newspapers. That Proclamation was signed by Lewis M. Wilkins, Secretary of the Provincial Government of Nova Scotia, and calls upon persons to enlist in the Foreign Legion.

While this matter was going on, Captain Strobel was either sent for by Mr. Crampton, or came himself to him—I do not recollect which—and entered into negotiations with him for carrying on this business. Mr. Crampton told Strobel that he had written to his Home Government for the purpose of learning what arrangements should be made in this country for enlisting soldiers, and had not yet received a reply; but as soon as he received it he would let him know. A short time afterwards, he wrote him a note, informing him that he had received the reply, and was prepared to enter into the proper arrangements for carrying on the enlistment. They met together, and Mr. Strobel prepared for him a plan which he had devised for the purpose of recruiting men in the United States, and taking them beyond our borders to serve in the "Legion." The plan, with some alterations, was adopted by Mr. Crampton, and Mr. Strobel was sent through the large cities of the United States to establish various recruiting offices. I give the most prominent facts, merely running over them as briefly as possible. After having first gone to New York, he came to Philadelphia and met Mr. Hertz, who was then engaged enlisting men in this city, and who had a number already enlisted. Mr. Hertz had, up to the 24th of March, 100 men, whom Mr. Strobel was to take to Halifax; and on the 25th of March they sailed in the steamer "Delaware," bound for that place. These men were enlisted at Hertz's office, No. 68, South Third Street, whither the advertisements had called them. Mr. Strobel saw them there enlisted, and to a certain extent assisted in enlisting them; and on Sunday, the 25th of March, he sailed in the steamer "Delaware," with about seventy-five men, the rest having deserted between the time of hiring, or engagement, and the time of sailing. These men were taken to Halifax by Captain Strobel, and there examined and attested; were placed in the barracks, and a short time afterwards sailed for Portsmouth, England. On the following Wednesday, Mr. Hertz had made an arrangement to send another company of recruits from the United States, in charge of a person named William Budd, a very intelligent and good officer, whom he had also engaged to go beyond the limits of the United States, with the intent of entering into the British service. The officers of the United States having learned that this recruiting was going on, devised, in pursuance of

directions from the Administration at Washington, the means for stopping it; and after Mr. Budd, with his company, had embarked from Pine Street, on board the steamer "Sandford," being furnished by Mr. Hertz with free tickets for a passage to New York, where they were to get others from Mr. Howe, to take them the rest of the journey, and had progressed as far as the Navy Yard, the United States' Marshal, having a warrant, went on board and arrested the whole company, and brought them to Philadelphia, where the parties who had assisted them, together with the papers in their office, were taken in charge.

That Mr. Hertz was engaged in wilfully violating the law, is proved by several circumstances connected with the case. He had the proclamation, in the shape of a handbill, printed and posted in the streets of Philadelphia, and paid for publishing the proclamation in the "Ledger" and "Pennsylvanian." He took an advertisement to the "German Democrat," which called for recruits for the Foreign Legion, and had an office opened, and individuals there to assist him in taking down the names of those who applied, and examining them to see if they would be received. He there told them that they would get thirty dollars bounty and eight dollars a-month, and also stated that various persons would receive commissions. He also gave them tickets for their passage to New York, some of which tickets were taken from those arrested, and will be produced. During the whole of his enlistment, the defendant Hertz was actively engaged in procuring men for that purpose.

Arrests having been made in all parts of the United States of persons engaged in this business, the Representatives of Her Majesty in this country became somewhat alarmed as to the results. Mr. Crampton then made arrangements with Mr. Strobel and one Dr. Reuss, who met him at Halifax, and devised plans as to the manner in which the recruiting was thereafter to be conducted in the United States, and on the 15th of May, or thereabouts, the whole programme of proceedings was changed by his Excellency the British Minister, and Sir Gaspard Le Marchant, Governor of Nova Scotia. They then devised a new plan of violating the national sovereignty of the United States, and of evading our laws enforcing neutrality—not a very praiseworthy occupation within the borders of a friendly Government, for the dignified Representative of the self-styled "mistress of the seas;" but it was an occupation which, if permitted by our people, might have destroyed the most amicable and friendly relations which exist, and which I trust may ever continue, between the United States and the Russian Government. Mr. Crampton, and his associate Representatives of Great Britain on this continent, gave directions to Captain Strobel to repair immediately to all the recruiting offices in the United States, and order the persons engaged in those offices to adopt the system which they had prepared for the guidance of the recruiting agents; giving to these agents at the same time a caution that, should they be unsuccessful in evading the laws and eluding the authorities of the United States, they could hope for no protection from the British Government; that is, the British Government was willing to accept the advantage of the successful criminal conduct of all their Ministers and his recruiting agents, but refuse to defend or assist those agents if they should be so unfortunate as to be detected. Honourable and generous Great Britain! and oh, most faithful British Ministers!

The ruse then adopted was to send men to Canada and Halifax, under the pretence of engaging them on the railroad, and when there, to enlist them in the army. For the purpose of carrying out this object, regular written instructions were given by Mr. Crampton to Mr. Strobel, who, with Dr. Reuss and other officers, started, in company with Mr. Crampton, to the United States. Some of these officers afterwards left the service of Her Majesty, and, as was their duty, have since expressed their willingness to disclose all their knowledge in support of the prosecutions which have been commenced.

The active connection and cooperation of nearly all the Representatives of Her Majesty in this general design, will be made clear to you by unimpeached testimony. I think I can say with confidence that his Excellency John F. Crampton, Minister Extraordinary, &c.; his Excellency Sir Gaspard Le Marchant, Governor of Nova Scotia; his Excellency Sir Edmund Head, Governor of Canada; the Hon. Joseph Howe; Lewis M. Wilkins, Provincial Secretary of Nova Scotia, and at least one British Consul, directed this course of conduct. All these gentlemen, it will be in evidence to you, have, with Mr. Hertz, the

defendant, taken an active part in directing the commission of the crime charged; and whether or not by a bold attempt to disguise their real object, is a matter of very little importance.

The oral testimony of the witnesses will, in some most material and important facts, be corroborated by written documents. I shall be able to produce to you some five or six original letters and notes of Mr. Crampton, and also the original instructions to the agents, as to the mode in which the enlistments were to be conducted in the United States. You will also have in evidence the original proclamation or advertisement in the handwriting of the Hon. Joseph Howe, inviting persons to enlist in the Foreign Legion, as well as several other letters and papers of considerable importance on the points in issue.

I take it, gentlemen, briefly to conclude what I have to say to you at this stage of the proceedings, that if I show that either or both of these defendants, in conformity with this general design of the British Government, were engaged in thus enlisting, or hiring or retaining any person to be enlisted, I have made out a clear case. I am free to admit that the evidence against one of the defendants is not of the most conclusive character, he not being known as being positively engaged in enlisting, hiring, or retaining any particular person, although he was in talking and giving directions on the subject. The Court will instruct you how far a person must go in order to commit this crime, and whether the fact of Perkins sending a man to Hertz, for Hertz to enlist him, constituted a crime on the part of Perkins.

I shall prove to you distinctly, by unimpeachable evidence, that all the persons mentioned in all of these bills have been enlisted by the defendant Hertz, in the first place, in the service of Her Most Gracious Majesty the Queen of Great Britain, and if not enlisted within the jurisdiction of the United States, that he has hired and retained each and every one of these individuals, and many more, to go beyond that jurisdiction; to wit, to Halifax, in Nova Scotia, for the purpose of being there enlisted in a foreign legion destined for the Crimea, to engage in the battles of the allies. If I prove these facts, I can safely ask at your hands a verdict against him for one of the most flagrant violations of the national sovereignty of this country which has ever been known to have been perpetrated within its borders. First, a violation of our law; second, a violation of the confidence reposed in a high representative functionary; and, thirdly, a violation of the sympathies, and a national insult to the sentiments and the feelings, of our people.

Max F. O. Strobel sworn.

After the witness was sworn, Mr. Remak desired the District Attorney to state distinctly what he intended to prove by him.

Mr. Van Dyke said he had one objection to doing so, but he thought it would occupy too much time.

Judge Kane said that he preferred that the witness should be examined in the first instance, without being distinctly apprised of all the facts about which he was to testify.

Examination by Mr. Van Dyke.

Of what country are you?—I am from Bavaria.

Have you been in military service?—Yes, Sir, in the Bavarian service, in the Artillery.

Have you ever been in war?—Yes, Sir, I have joined the Revolutionists in Bavaria.

In 1848?—During the revolution in the year 1849.

How did you happen to leave the service?—Well, we were defeated and obliged to leave Baden and go into Switzerland; then I stopped there and travelled through France and England until 1851. On the 13th of May, 1851, I embarked at Havre and came to this country, and arrived here in June 1851. On the 23rd of June, 1851, I came to this country; I was in New York several weeks, and then went to Washington, and there got employment in the Coast Survey Office. I was there until 1853, when I went out with the expedition to Oregon, under Governor Stevens. I went up with him to Minesota; I left his party out on the plains on Red River, and came back to Minesota on the 7th of

September, 1853, and came down to St. Louis, and started with Colonel Fremont on his winter expedition to San Francisco about this Great Pacific Railroad; I have been Assistant Typographical Engineer to Colonel Fremont; I left San Francisco on the 1st of May, 1854; I crossed the Isthmus and came back with our Indians, and brought them up to Kansas again. From there I went back to Washington City, where I finished the maps for the works of Colonel Fremont, which I suppose are now before Congress.

When did you finish the maps?—I finished them in the end of August 1854. I then received a letter of recommendation from Mr. Benton to the different directors of railroads to secure me a position as engineer. I went with this recommendation or letter of introduction to Missouri. I took sick there, and was obliged to leave the valley of the Mississippi and come back to Washington City. When I came back to Washington I was engaged in the Pacific Railroad Office, at that time established in Washington, and was at work there until the 1st of February. In the end of January I saw Mr. Crampton, and received from Mr. Crampton the reply.

State the whole conversation which took place between you and Crampton?—I received from Crampton the reply that he could not tell me at that moment what could be done. I said to Crampton that I believed in this very time, as it was in the winter time——

Last winter?—Yes, Sir; that many people were out of work in New York and other places, and it would be very easy to raise men for this “Foreign Legion” that the English Parliameut had agreed to establish. Crampton told me that he believed so himself, but at that moment he had no orders from the Home Government to do anything in the matter, and that he would let me know as soon as he received any communication from home. A few days afterwards, I suppose on the 28th of February, I received a letter from Mr Crampton.

Is this the letter?—Yes, Sir.

Is this the envelope in which it was inclosed?—Yes, Sir.

The letter was here read in evidence as follows:

“Sir, “ Washington, February 4, 1855.

“With reference to our late conversation, I am now able to give you more precise information in regard to the subject to which it related.

“I remain, &c.

“Mr. Max Stobel. (Signed) “JOHN F. CRAMPTON.”

After receiving this letter I went to see Mr. Crampton the next morning; Mr. Crampton told me that he had received letters from home, and that he was willing now to raise men here in the jurisdiction of the United States for a British Foreign Legion, which should be established either in Nova Scotia or in Canada.

Did he use the words “within the jurisdiction of the United States?”—Yes, within the jurisdiction of the United States.

He used those precise words, did he?—Yes, Sir; but he was not sure at that time whether the main depôt should be at Halifax or in Canada, and he was obliged to make arrangements with the Governor-General of Canada. At the very same time he gave me a letter of introduction to the British Consul in New York, Mr. Barclay, in which he states that I am already acquainted with this matter, and that Mr. Barclay might receive me and talk with me about this subject, and that I should make preparations in New York for getting men. He told me at the very same time he would send a messenger to the Governor-General of Canada. I went to New York and delivered my letter to Mr. Barclay.

What was this messenger sent for?—To arrange matters about a depôt or place where we could send these men whom we got here in the States. I was waiting in New York for the return of this messenger for several weeks. The messenger returned and was sent again, and no understanding could be made between Sir Edmund Head and Mr. Crampton—(Head is Governor-General of Canada)—because during that time the Governor of Nova Scotia had received orders from England to commence a new depôt in Halifax, and to try and get men in the United States for this service.

The arrangement was not made by the messenger sent to Canada to Sir

Edmund Head, because he had received a letter from the Governor of Nova Scotia, stating that he had received orders from England to make Halifax the depôt?—Yes, Sir. The reason for sending all the men to Halifax was the order that the Governor of Nova Scotia received from England. During that time I went back to Philadelphia. It was on the 10th or 11th of March, 1855, when I came back to Philadelphia. I learned from a friend of mine, a certain Dr. Biell, who is now Regimental Surgeon in this Foreign Legion, that Mr. Hertz had received letters—one from England, another one from Mr. Crampton, though I do not know positively, I am not certain where it was from, and that he had spoken to this Dr. Biell, and told him he was able to procure him a commission in this Foreign Legion.

In consequence of what Dr. Biell told you, state what you did.—I went to Hertz and had a conversation with Hertz about this matter.

Where was he?—He was in his office, No. 68, South Third-street, opposite the Exchange. I saw then Mr. Hertz, and from that time (9 o'clock A.M.) I was with Mr. Hertz till 3 P.M., where, in pursuance of the advertisements, men came and wrote their names down in a book, and agreed to enter the Foreign Legion at Halifax.

Have you ever seen a bill like this?—I have seen this handbill.

Where?—In Mr. Hertz's office.

The bill was here read in evidence. It reads as follows:

"MEN WANTED FOR HER MAJESTY'S SERVICE.

"(Arms of Great Britain, with mottos.)

"Provincial Secretary's Office,

"Halifax, Nova Scotia, March 15, 1855.

"The Lieutenant-Governor of Nova Scotia having been employed to embody a Foreign Legion, and to raise British regiments for service in the Provinces or abroad, notice is hereby given, that all able-bodied men between the ages of 19 and 40, on applying at the depôt at Halifax, will receive a bounty of 6*l.* sterling, equal to 30 dollars, and on being enrolled will receive 8 dollars per month, with the clothing, quarters, and other advantages to which British soldiers are entitled.

"Preference will be given to men who have already seen service.

"The period of enlistment will be from three to five years, at the option of the British Government.

Officers who have served will be eligible for commissions. Gentlemen who wish to come into the Province will please lodge their names, rank, date of service, &c., at the office.

"Persons who serve in the Foreign Legion will, on the expiration of their term, be entitled to a free passage to America, or to the country of their birth.

"Pensions or gratuities, for distinguished services in the field, will be given.

"Nova Scotian and other shipmasters who may bring into this Province poor men willing to serve Her Majesty, will be entitled to receive the cost of a passage for each man shipped from Philadelphia, New York, or Boston.

"By command,

(Signed)

"LEWIS M. WILKINS,

"Provincial Secretary."

(Another bill here shown the witness.) Have you ever seen this bill?—I have, in Detroit.

The bill was here read in evidence. It read as follows:

"NOTICE.

"A Foreign Legion is now being raised in Halifax, Nova Scotia. Persons wishing to join the Legion will receive a bounty of 6*l.* sterling, or 30 dollars; from which a reduction of 5 dollars for travelling expenses to Nova Scotia, will be made. Besides good rations and quarters, men will receive 8 dollars a-month as pay.

"The period of enlistment is three or five years, at the option of the applicant.

"For extraordinary service in the field, or wounds, bounties and pensions for life will be granted. Besides which, there is now a project in view, and which will undoubtedly be carried out, to give to each soldier, at the expiration of his term of service, 50 acres, and to each non-commissioned officer 100 acres of land in Canada.

"All who are inclined to enter the service under the foregoing very favourable conditions, are hereby invited to apply at Niagara city, Butler Barracks, or at the Windsor Castle, Windsor, Canada West.

(Another bill shown witness.) Did you ever see this bill?—Yes, Sir; I had that printed in Detroit.

Mr. Van Dyke.—It is a German bill.

Mr. Remak.—The paper was printed to the order of the witness.

Judge Kane.—The paper now presented is part of the general transaction which does not directly affect the person on trial. It is like the letter of Mr. Crampton which was read a short time ago, and is a portion of the general narrative.

By Mr. Van Dyke:—

Is that a true translation attached to the German handbill?—Yes, Sir.

The translation was here read in evidence. It read as follows:

"NOTICE.

"In Halifax, Nova Scotia, a Foreign Legion will be formed. Every one who will enter into this Legion, which is for the most part composed of Germans, and has German officers, is entitled to a bounty of 6*l.* sterling, or 30 dollars, from which, however, 8 dollars, for travelling expenses to Nova Scotia will be taken off.

"Moreover, every man will receive full and good maintenance, besides 8 dollars a-month pay.

"The time of service is, according to pleasure, three or five years.

"For extraordinary services in the field, or wounds, bounties and pensions for the whole lifetime will be given. It is also truly in prospect, that every soldier, on the running out of his time of service, will obtain fifty acres, and every non-commissioned officer one hundred acres of land in Canada, as his own property.

"Every one who is disposed to fall in with these conditions, is hereby notified to repair to the Niagara Barrack, not far from Queenstown, Canada West, at the depôt there established."

You say you went to Mr. Hertz, and you saw the recruits sign the book there; look at that book and say if that is it.—That is the book.

Where did you see that book?—At Mr. Hertz's office.

Did you see any of the parties signing it?—Yes, sir, (looking at the book) there is the handwriting of some men.

Will you read me the names of the men you saw sign?—The names of the officers were cut out.

Do you recollect the name of Joseph Purnell?—Yes, sir; I recollect the names of all the men in my company.

Go on and state what you did after the men enlisted.—After we had more than 100 men, we gave them cards, and told them we would be ready to start on Sunday, the 25th of March, 1855, on the steamer "Delaware," in the morning, for New York.

What did you tell, or Hertz tell these men? If you told them anything, what was the understanding?—The understanding was that those men who signed this book—

Judge Kane. Was the understanding announced in the presence of Mr. Hertz?

Witness. Yes, sir; in the presence of Mr. Hertz the men were told that there was a Foreign Legion now established at Halifax, and that Mr. Hertz would send them to Halifax to the Foreign Legion to enlist in it—every man

that is well, and able-bodied and willing to enlist in this Foreign Legion, shall have a free passage and 30 dollars bounty, and 8 dollars a-month pay, and the men who agreed to be attached to this Foreign Legion signed this very book.

Who said that they should sign that book?—Mr. Hertz; and they signed this book with the understanding to go to Halifax and enlist in the Foreign Legion, and it was also told to those men that an officer should go in their company; and I was called captain of those men before I started, and was introduced to them before we started as their captain—I was to take that company. I recollect Palattre and Purnell very well.

Mr. Van Dyke here asked the witness whether he recollected the names of the various persons who composed his company; when he replied that he remembered the following, besides some sixty more whose names he did not recollect.

F. P. Garrier, Jacob Branning, Frederick Fuss, Hugh Killen, Fred. Ferdinand Bostandig, Emanuel Urnhaut, Edward Rollnn, Carl Muhlenhausen, John Schæffold, Petrus Pauls, John Kœlomus, Jacob Bletcher, Foley Worrell, Rudolph Chas. Ruth, Peter Ropert, Ed. Dobeller, Jacob Roth, Pierce Pelattre, Joseph Purnell, Gustav Prothe, Gunther Leopold Neisbaum, Wilhelm Heinrich, Karl Altenberg, Karl Barthold, Johann Baumiescer, F. Ulrich.

Were all these persons in your company?—Yes, sir.

How many more went with you?—Well, I started from here with about seventy-five or seventy-six men, and two officers, Lieutenant Essen and Lieutenant Shuman, on this steamer "Delaware" to New York.

When did you leave here?—On Sunday, the 25th of March, early in the morning, and arrived in New York on Monday morning about 5 o'clock.

Well, sir, when you got in New York what did you do?—I came to New York in the morning at 5 o'clock, and left my men on board the boat, as I was not furnished with means enough, as I had received only some money from Hertz. I had received tickets and 25 dollars to go on to New York, and I was there to receive more money.

Was that money given you for the purpose of taking this company on?—Certainly; and I was to receive further means in New York to take the men on to Halifax.

When you got to New York what did you do?—I went to see Mr. Barclay, the British Consul at New York, and when I got there, Mr. Barclay sent me to Delmonico's to see Mr. Howe. The Hon. Joseph Howe was at that time agent from the British Government in this recruiting business in the States. He was living at Delmonico's. I saw Mr. Bucknell, not Howe. He told me I should be furnished with means as early as possible before 10 o'clock; I had to divide the men in different taverns, and keep them together there for three days. At last I was furnished with tickets and means to start with these men for Boston, where an English brig, the "America," was waiting there to receive us, and take us on board to take us to Halifax. Mr. Hertz, in the presence of Mr. Bucknell and Mr. Turnbull, told me this.

How did Mr. Hertz get to New York, if you left him in Philadelphia when you sailed?—I travelled with the boat and Mr. Hertz took the railroad. Mr. Howe or Bucknell was to be applied to, to let me have the necessary means to go on with the company. I received this money in New York, through Mr. Hertz at the beginning of the day, and before I started, some from Mr. Bucknell. I left New York on the Stonington road and came to Boston. I arrived there about 5 o'clock in the morning, with all the men, and found this brig, the "America," ready to take us on board and bring us to Halifax. I embarked my men.

Did you get this money from Hertz or Howe?—No, sir, from Mr. Bucknell.

Did you see Howe in New York?—I saw Howe in New York at the time, and received a letter from Mr. Howe to Sir Gaspard le Marchant. I told him that I had so many men in town, and wanted some money, and that I wanted tickets and a letter to Sir Gaspard le Marchant.

The tickets you got in Philadelphia only carried you to New York on the steamer "Delaware," then?—Yes, sir.

And you went to Howe and told him you wanted tickets and a letter to the

Governor and some money?—He gave me a letter, and Mr. Hertz and Bucknell gave me the money.

Who was Bucknell?—He was a Civil Engineer.

Was he with Mr. Howe?—He was with Mr. Howe, but I do not know whether he was engaged by Howe only for the purposes of this business or not; I made the acquaintance of Bucknell only a few days before; I saw Mr. Hertz in New York at the time; Hertz told me I was to go on as soon as possible; I was anxious to get the men away from New York, and he promised to see Howe and get money; he kept me twenty-four hours in trying to get money; he gave me the money, subsequently getting it from Howe. I embarked from Pier B in New York, and went on the Stonington road to Boston; I got there at 5 o'clock, and went around with all my men to the Tea Wharf in Boston and found there the vessel which I was promised I would find.

Who promised you?—Mr. Bucknell. When I came to this vessel it was in the morning, between 6 and 7. I embarked my men at once, I gave them breakfast, and started at half-past 8 o'clock for Halifax, and arrived there on the 30th of March. When I came to Halifax, the vessel went into a private wharf, and I was put on shore to report myself to the Provincial Secretary and Sir Gaspard le Marchant.

Who was Provincial Secretary?—Mr. Wilkins.

Is he the man who signs this proclamation?—Yes, sir.

Lewis M. Wilkins?—Yes, sir.

When you got to the wharf you went on shore to report yourself to Wilkins?—I did so. The vessel was ordered to the Royal Wharf, and during that time I met some regimental surgeons and some officers of the 76th Regiment, some of the Artillery. Afterwards Sir Gaspard le Marchant, Governor of Nova Scotia, himself came to the Tea Wharf.

Judge Kane.—The "Tea Wharf?"

Witness.—The "Queen's Wharf." He ordered me to file the company in, and show them; I did so, and Sir Gaspard le Marchant, with other officers, passed along by the men, and inspected the men; I introduced these two men I had with me as Lieutenants—they were received by the officers as officers; and I received an order from Le Marchant to march the men up to the Hospital to have them examined, and afterwards to march them out to Melville Island to have them attested. I marched them up to the Hospital, and they were there examined, and two or three men rejected, and one kept back as sick. All the others I marched out to Melville Island. There they had the British barracks, and barracks erected for the Foreign Legion; there the men were attested. After the man is enlisted, he has to be attested and sworn as a soldier.

Judge Kane.—What is attesting?

Witness.—There is a judge comes to the quarters of the soldiers, and then the officer is there, and the judge swears the soldiers in; that is the act of attesting.

What is the form of the oath?—The form of the oath is that we swear to serve Her Majesty the Queen of England for a time, three or five years, or so many years as the soldiers agree upon—in this case the agreement was for three or five years—faithfully, and so on.

That is the form of the oath?—Yes, sir, that is the oath they administered to each of those men.

Judge Kane.—Is there any writing precedes it?

Witness.—It is not in writing, it is a printed form; it is signed by the judge, and afterwards by witnesses; I signed nearly all of them.

Is it signed by the recruit?—Yes, sir, it is signed by the recruit; after the men had been attested, I commenced the drill, and by-and-bye the men received clothing and arms. I was at Melville Island, at the officers' quarters, with the two other officers and Dr. Biell, until the 10th of May; I was entered on the Army List, as were the other officers, and we received our pay and were treated as officers; on the 9th or 11th of May, Mr. Crampton himself came up to Halifax, in order to make better arrangements about this recruiting business, as many men had been arrested in the States and kept back; on the 13th of May I received a letter from Lieutenant Preston of the 76th.

[Letter shown witness.] Do you recollect this paper?—That is the letter of Mr. Preston, in Halifax, when he told me that Mr. Crampton wanted to see me.

Who is Mr Preston?—Mr. Preston is Lieutenant in the 76th Regiment; the officer who has charge of the barracks in Niagara.

The note was read as follows :

“ Dear Strobel,

“ *Halifax, Tuesday, May 13.*

“ I am directed by the General to acquaint you that Mr. Crampton wants to see you at his house at 10 o'clock to-morrow morning—be punctual. If you like, come up to my house at half-past 9 o'clock, and we will go together.

“ Yours truly,

(Signed)

“ J. W. PRESTON,

“ 76th Regiment.”

Where was he at the time?—At the time he was at the Fort in Halifax with his regiment; the letter stated that Mr. Crampton wished to see me at his quarters at 10 o'clock on Sunday; I went to see Mr. Crampton, and there I found Sir Gaspard le Marchant; I went there with Preston, and I was ordered by Mr. Crampton to make a plan out for him in writing to go to the United States—that is, to those cities of the United States which lie on the boundary line, such as Buffalo, Rochester, Cleveland, Toledo, Detroit, Oswego, and others. I wrote a plan for him. I said that I would want so many officers, and for every officer a non-commissioned officer.

Judge Kane.—Does the plan affect the parties on trial?

Mr. Van Dyke.—I think so; it was after arrests had taken place in some of the Western cities that the British Minister determined to change the plan of enlistment in the States, and this witness says that in pursuance of that determination he received a letter from Lieutenant Preston to call at the quarters of Mr. Crampton. He called there, and Mr. Crampton told him that there had been some difficulty about the recruits, and wished him, Strobel, to prepare another plan, which, if adopted, would avoid that difficulty; he prepared this plan, and submitted it to Mr. Crampton, and, if I understand it, the witness will say that the plan was adopted by him with some little variation, and the recruiting was carried on in the United States in accordance with this remodelled plan.

Judge Kane.—By either of these defendants in accordance with this plan?

Mr. Van Dyke.—If I may be permitted to anticipate the defence, which must be done more or less in every case, it will be, I suppose, the same as made before the Commissioners in relation to Budd's Company, that the men enlisted in Philadelphia, in that Company, as the defendants allege, were nothing more or less than a set of men engaged to work on the railroad in Nova Scotia; we intend to show by this that Hertz, in so representing, was but carrying out the remodelled plan adopted, more effectually, by Mr. Crampton at Halifax. I shall show also by other witnesses that at a period subsequent to that of which the witness now speaks, and after the defendants were arrested, the defendant Hertz engaged one Baron Van Schwartzenhorn and one Baron Schuminsky to carry on the enlisting business in Philadelphia, and that another company was enlisted by such agents of Hertz in a manner proposed by the remodelled plan.

Mr. Remak in reply, stated that the witness had sworn that Hertz requested him to do certain things, and whatever resulted from that alleged fact was admissible. Mr. Strobel had given evidence in regard to drawing a plan, but he had not sworn that Hertz commissioned him to devise or draw that plan. He might have been requested by Mr. Crampton to draw that plan, but the counsel for the defence could not see how that could affect, for the present, his client. He could not be responsible for the acts of Strobel, after Strobel had done what he requested of him, and if he went beyond what was requested, he did it on his own responsibility.

Judge Kane.—The evidence taken in connection with the offer of the District Attorney is admissible entirely as it stands, in the same category with evidence originally given by him of concert with the officer of the British Government. If it is not brought home to either of the parties on trial by subsequent evidence, of course it will not affect them.

Mr. Van Dyke.—I do not wish my offer to be misapprehended by the counsel for the defence in any particular. I state distinctly to the Court that I have evidence to show that there was a regular game played by Her Majesty's Envoy to evade the law; that these men were seemingly engaged to work on a railroad, but in reality enlisted to serve in the Foreign Legion, and that they

were told by Hertz if any person questioned them, to reply that they had been engaged to work on a railroad in Nova Scotia. I have, for the prosecution, to establish certain important facts: one is, that the sending of these men to Nova Scotia was for the purpose of their being enlisted in the Foreign Legion, and their sending them there as workmen on a railroad was a special disguise, under which they hoped to evade the law of this country. If I show that this was their intention, it is certainly evidence, and the crime is proved notwithstanding their attempt at evasion.

Judge Kane.—The evidence is admissible.

Did you prepare that plan?—I prepared it.

[Showing a paper.] Is that it?—Yes, Sir, it is my own handwriting; it is the plan.

Was this submitted to Mr. Crampton?—Not this one. This was the copy I first made. I afterwards made a clear copy of it which was submitted.

This, then, is the original copy, of which a clear copy was made and submitted to Mr. Crampton?—Yes, sir.

The paper was here read in evidence as follows :

“I have the honour to inform his Excellency the Envoy Extraordinary of Great Britain in the United States, and his Excellency Sir Gaspard le Marchant, the Governor of Nova Scotia, of the plan I have adopted to raise the greatest possible number of men in several different cities of the United States, on the boundaries of Canada.

“I wish to station in Buffalo, Lieutenant Shumann with Corporal Roth.

“In Detroit, Dr. Reuss with Corporal Kamper.

“In Cleveland, Dr. Aschenfeldt with Sergeant Krieger.

“Opposite to Detroit, Sergeant Barchet shall receive the individuals sent by Dr. Reuss, and his duty will be to send them as fast as they arrive by railroad to Queenstown, where a depôt must be established, and a magistrate appointed to enlist and attest the men; and it will be the business of the Commanding officer of this depôt, when a sufficient number is together, to send them by steamboat wherever his Excellency may decide. Those officers stationed at the above-mentioned cities will strictly follow the instructions given to them, through me, from his Excellency, in regard to the manner and way to be used in encouraging and sending such individuals who are willing or desirous of leaving the United States to enlist in the British service. My intention in giving to each commissioned officer a non-commissioned officer, as assistant, is, to enable those gentlemen to find out said individuals and to avoid the necessity of employing, for this purpose, strangers who might easily deceive them.

“My opinion is, that every officer, with the assistance of his non-commissioned officer, will be able to transact all the business, without being compelled to hire regular agents or runners, that is, if the gentlemen know the proper way of managing.

“I will myself visit each of the places mentioned, and will particularly confine myself to where my presence will be most required. I shall also probably visit Chicago, where doubtless a great number of men may be got. We can then agree on reasonable terms, for having them conveyed by railroad to Detroit, which expense, in my opinion, would not exceed 2\$50 per head.

“I saw all the officers and non-commissioned officers yesterday evening, and held a long conversation with them; the result of which is, that we all perfectly understand each other, that they are all entirely satisfied, and that every one is willing to do his very best in regard to this matter.

“I have also made estimates of all the expenses of the officers connected with this matter for the period of one month, at their different points of destination, including their travelling expenses, which I take the liberty of laying before your Excellencies:

“Say the travelling expenses of the officers from this place to their different stations, 10 <i>l.</i> sterling each	- - - - -	\$400
“To Schumann, Aschenfeld, and Reuss, each 240 dollars per month	- - - - -	720
[From this money each has to pay his non-commissioned officer, and to meet all other expenses that may be necessary in sending the men over on the Canadian		

side, pay of temporary agents, runners, and tavern-keepers, included.]

“ Pay for Weiss, Barchet, and other non-commissioned officer, 100 dollars each - - - - -		\$300
“ My travelling expenses from town to town, hotel expenses, pay of my non-commissioned officer and his travelling expenses - - - - -		300
		\$1,720

“ Thus making a total amount of 1,720 dollars, equal to 344*l.* sterling.

“ This, or at most 360*l.*, would, in my opinion, be the amount requisite to enable ten officers to carry on operations for one month; and, with reasonable good fortune, to deliver on the Canadian shore a large number of serviceable, able-bodied men.

“ I have, &c.”

Was that plan adopted?—That is the plan which was approved and adopted by Mr. Crampton and Sir Gaspard le Marchant, and I received orders to bring next morning at 11 o'clock the officers mentioned there, four non-commissioned officers of my company, all attested men and the soldiers to the provincial building, and meet there Sir Gaspard le Marchant and Mr. Crampton. I went there with those men. I met there Mr. Crampton, Sir Gaspard le Marchant, and Lieutenant Preston. I was ordered to leave Halifax immediately and repair to the States, and I left Halifax in company with Mr. Crampton and Preston of the 76th, with officers and non-commissioned officers. When I saw Mr. Crampton there I was in uniform, and my non-commissioned officers were in uniform. When we left they received civil clothes from the Government there for this purpose, and went on with me. When we came to Portland Mr. Crampton gave me orders to go with him to Quebec to see Sir Edmund Head, the Governor-General of Canada, to have a perfect understanding about the dépôt, and the means of sending men through Canada to Nova Scotia. I went with him. I saw Sir Edmund Head in the presence of Mr. Crampton. I received letters from Sir Edmund Head to get barracks at Niagara. These barracks were to receive the men who were sent out of the States to enlist in the Foreign Legion. I received also at Sir Edmund's house—

Judge Kane.—I am anxious not to go beyond the limit of courtesy to a foreign Government. I do not wish to penetrate what was done there unless it appears connected with the persons now on trial. The District Attorney must guide the witness after this suggestion, so as to avoid the appearance of too close an inquiry into matters not clearly before this Court as matters of judicial investigation.

Mr. Van Dyke.—I understand the suggestion of the Court, and will try to keep the witness within the proper bounds. My whole object is to get the general plan of operations, and then to show that the object of the general plan was to procure men from the States to join this Foreign Legion, and that the defendant cooperated in that general plan.

[Paper shown.] Will you look at that paper, and state what it is?—It is the instructions I received at Quebec, in Sir Edmund Head's house, out of Mr. Crampton's own hands. The original was written in Mr. Crampton's own handwriting, and was written—at least part of it—in my presence in his room. This is a copy made from the original; I made it for the purpose of preserving a copy. The original I gave back in a report I made to Sir Gaspard le Marchant, in Halifax. That report stated what I had done to clear me of two charges made against me up there.

That then is a copy made from the original instructions of Crampton, as to your duty in the United States?—That is a copy of the original instructions I received at this time from Mr. Crampton.

The paper was being read as part of the evidence, when on motion a recess was taken for ten minutes. On the Court reassembling, the reading of the paper was concluded. It is as follows:

“ Memoranda for the guidance of those who are to make known to persons in the United States the terms and conditions upon which recruits will be received into the British army:—

“ 1. The parties who may go to Buffalo, Detroit, or Cleveland, for this

purpose, must clearly understand that they must refrain from anything which would constitute a violation of the law of the United States.

"2. They must, therefore avoid any act which might bear the appearance of recruiting within the jurisdiction of the United States for a foreign service, or of hiring or retaining anybody to leave that jurisdiction with the intent to enlist in the service of a foreign Power.

"[Both these acts are illegal by the Act of Congress of 1818, sec. 2.]

"4. There must be no collection, embodiment of men, or organization whatever attempted within that jurisdiction.

"5. No promises or contracts, written or verbal, on the subject of enlistment, must be entered into with any person within that jurisdiction.

"6. The information to be given will be simply that to those desiring to enlist in the British army, facilities will be afforded for so doing on their crossing the line into British territory, and the terms offered by the British Government may be stated as a matter of information only, and not as implying any promise or engagement on the part of those supplying such information, so long at least as they remain within American jurisdiction.

"7. It is essential to success that no assemblages of persons should take place at beer-houses or other similar places of entertainment, for the purpose of devising measures for enlisting, and the parties should scrupulously avoid resorting to this or similar means of disseminating the desired information, inasmuch as the attention of the American authorities would not fail to be called to such proceedings, which would undoubtedly be regarded by them as an attempt to carry on recruiting for a foreign Power within the limits of the United States; and it certainly must be borne in mind that the institution of legal proceedings against any of the parties in question, even if they were to elude the penalty, would be fatal to the success of the enlistment itself.

"8. Should the strict observance of these points be neglected, and the parties thereby involve themselves in difficulty, they are hereby distinctly apprized that they must expect no sort of aid or assistance from the British Government—this Government would be compelled by the clearest dictates of international duty to disavow their proceedings, and would moreover be absolved from all engagements contingent upon the success of the parties in obtaining by legal means soldiers for Her Britannic Majesty's army."

Examination continued by Mr. Van Dyke.

The paper just read you copied from the original one in the handwriting of Mr. Crampton?—Yes, sir.

[Another paper shown witness.] In whose handwriting is this paper?—At that very time I also received this cypher to telegraph with to Mr. Crampton and to Halifax, about this recruiting business. I cannot swear as to whose handwriting it is in, but I believe it is Mr. Crampton's; I did not see him write it, but he handed it to me.

The paper was here given in evidence; the following is a copy:

Letter.	Cypher.	Letter.	Cypher.
"a	y	n	q
b	v	o	n
c	j	p	c
d	l	q	h
e	x	r	o
f	e	s	p
g	z	t	k
h	u	u	g
i	b	v	d
j	w	w	m
k	t	x	r
l	a	y	i
m	s	z	f

You were to telegraph him by this cypher, instead of the usual way?—Yes, sir.

What was the object in giving you this cypher?—Such cyphers were given to several officers—to Mr. S. Molenski, Mr. Cartensen, and men actually engaged in the recruiting business, received those cyphers.

Was it for the purpose of avoiding detection?—It was for the purpose of avoiding detection and avoiding any difficulties with the authorities here. It was to enable me to telegraph to Mr. Crampton from every place I might visit, without the people in the telegraph offices understanding it.

Were all the officers sent on this recruiting to telegraph to Mr. Crampton as to their proceedings, and was that cypher to be used?—Yes, sir.

[Card shown witness.] What is that?—That is a card of invitation to Sir Gaspard's table, in Halifax, received on the 8th of April.

The card was read as follows:

"His Excellency Sir Gaspard and Lady le Marchant request the honour of Captain M. F. O. Von Strobel's company at dinner, on Sunday, 8th April, at a quarter to 7 o'clock. An answer is requested.

"Belvidere."

Are these also cards of invitation to you?—Yes, sir.

The cards are here read as follows:

"Colonel Clarke and the officers of the 76th Regiment request the honour of Captain Strobel and the officers of the Foreign Legion company at dinner, on Wednesday, 18th April. An answer will oblige."

"Colonel Fraser, Colonel Stotherd, and the officers of the Royal Artillery and Royal Engineers, request the honour of Captain Max F. O. Strobel's company at dinner, on Tuesday, the 3rd of April, at 7 o'clock. An answer is requested.

"Artillery Park."

Judge Kane.—What are these papers for?

Mr. Van Dyke.—To corroborate what the witness says.

Judge Kane.—When the witness is impeached it will be time enough to corroborate what he says.

Mr. Van Dyke.—I withdraw this paper.

[Letter shown witness.] Did you receive that letter from Mr. McDonald?—Yes, sir. He is an officer in the Provincial Secretary's office.

The letter was here read in evidence as follows:

"Dear Sir,

"Provincial Secretary's Office, May 3, 1855.

"I am directed by his Excellency the Lieutenant-Governor to introduce to you the bearer, Lieutenant Kuentzel. He comes with letter to Sir Gaspard from Mr. Crampton. You will please to explain to him the steps necessary for him to take to secure his commission.

"Your obedient servant,

(Signed)

"BRUCE McDONALD.

"Captain Strobel, 1st Company Foreign Legion."

[Letter shown witness.] Do you recollect this letter?—This is a letter written by Preston to me, while I was actively engaged in recruiting men in Buffalo, Cleveland, Detroit, and other places. Mr. Preston had at that time charge of the barracks in Niagara.

The letter was read in evidence. It is as follows:

"Dear Smith,

"Niagara, June 4, 1855.

"I send you the accompanying order, in currency equal to 80*l.* sterling, which please send me a receipt for by return of post. I find I cannot make any arrangement with the railroad people here. They say the tickets had better be paid for at Windsor, which I think is best also, for then the men will come to me clear of expense, which is the intention. Tell Shumann and Dr. Aschenfeldt to telegraph me how they are getting on at once, and how many, or if they have got any men. Let me hear also from you.

"Yours truly,

(Signed)

"J. W. PRESTON,

"76th Regiment.

Witness.—This Mr. Preston afterwards took command of the dépôt that was established in Niagara town.

This letter says "Dear Smith;" what was the meaning of that?—I was

obliged to take that name because I was known as being previously connected with enlisting in the States.

[Paper shown witness.] What is this?—That is a telegraph I received from Preston.

The paper was read in evidence, as follows :

“ (By telegraph from Niagara.)

“ To Mr. Smith,

“ *Windsor, June 4, 1855.*

“ How many men have you got? Money leaves here to-morrow morning by mail, on U. C. Bank. Answer immediately.

(Signed)

“ J. W. PRESTON.”

Witness.—Mr. Preston was the medium between myself and Le Marchant. At Halifax, Preston received the orders from Le Marchant, and telegraphed them to me.

[Paper shown witness.] This is another telegraph from Preston, is it not? —Yes, sir.

The telegraphic despatch was read in evidence, as follows :

“ (By telegraph from Niagara.)

“ To Mr. Smith,

“ *Windsor Castle, June 7, 1855.*

“ Send in statement of money issued, and how applied. Tell all the others to send me similar statements. Until such arrive I cannot issue for next month.

“ (Paid.) ”

“ J. W. PRESTON.”

Go on, and state what occurred after you left Quebec.—I left Crampton in Quebec, and travelled with Preston and another English gentleman, Captain Bowls, to Montreal. I there received orders for another English officer in Toronto, to give over to us the barracks in Niagara Town. Preston took charge of the barracks. I met my officers whom I had sent from Portland to Niagara. They were sent from Portland to Niagara Falls. I met them at Niagara Falls, and directed them to go to different places; to Cleveland, Detroit, and Buffalo, and afterwards I sent one non-commissioned officer to Chicago. I was called back. I commenced it about the 4th of June, and I was recalled on the 13th, and arrived back in Halifax. I was recalled by the officers because during this time I was only able to enlist sixty or seventy men, and Sir Gaspard expected a great many more; and through this, on account of the intrigues of Mr. Preston, and some other officers who were anxious to receive commands in this Foreign Legion, I was recalled to Halifax. I was charged with having kept two officers on the Canada shore instead of sending them all into the States, and I myself, instead of travelling and going to Chicago, Cleveland, and all around all the time to every place, was charged with stopping too long in one place (in Windsor).

Who made these charges?—They were made by Mr. Preston, and sent to Halifax.

Who sent to you and told of them?—Sir Gaspard le Marchant. He said that these charges had been made, and that was the reason I was sent for to Halifax. I requested a court-martial, and wrote a long account to Le Marchant. I also sent it to Crampton by a friend of mine, Mr. Ochlschaler; my company was still at Melville Island, under the command of one of the officers I left there.

You saw them there at that time?—I was forbidden to see the men, and the men had strict notice not to converse with me; at least, the men received such notice the second day I was there. I told the Governor-General that, under such circumstances, I would leave; and the sergeant was put in irons, and fifty men of my company sent to prison, for conferring with me by sending to me their non-commissioned officer. I left Halifax with the “America,” and came back to the States, and since that time I have had nothing to do with this concern. I saw Hertz here afterwards. Mr. Crampton took the address of every one of the agents who had been engaged in recruiting at that time in Boston, New York, Philadelphia, and Baltimore, and told me that he was going to see them.

Who did he take as the name of the person in Philadelphia?—Mr. Hertz was the man recruiting in Philadelphia.

By Mr. Remak :—

Who said so ?—Mr. Crampton took the names of different persons recruiting in different cities.

Whose name did he take as the person in Philadelphia ?—He knew the names already, but took the address of every one of those gentlemen.

From you ?—From me, those I had in my possession ; the address of Captain Carstensen, of Boston, and other parties in New York ; of Smolenski, and the address of a friend of mine in Baltimore.

Did Crampton take the address of Hertz from you ?—He said he knew all about the proceedings against Hertz, and when he came to Philadelphia he would settle with every one of those gentlemen, and arrange matters in a different way, because he thought proper not to send men by the vessels any more, but by railroad, into Canada.

Do you know about his giving any orders about engaging emigrant runners ?—Yes, sir, he allowed me to pay every runner 4 dollars for a man.

Do you know what Hertz was to get for every man he sent ?—I do not know exactly the amount Mr. Hertz received ; I know he received money ; and I know that they said in Halifax that Mr. Hertz——”

Mr. Remak.—I object to that.

By Mr. Van Dyke :—

Did you ever hear Hertz, or any other person or persons in his presence, say that he received any money ? and how much ?—Yes, sir, I heard Mr. Hertz say he had received money, but never enough to cover his own expenses.

Did he tell you from whom he received it ?—He told me that he would receive money from Mr. Howe.

What else did he say to you in reference to this matter ?—Mr. Hertz told me he had connection with the English Government, and that Mr. Crampton and Mr. Howe were the proper agents for paying out the money, and giving tickets and giving recommendations to officers to get commissions. Mr. Hertz said so, and said he had instructions from the British Government to that effect, and that he would receive head-money for the men. He mentioned Howe and Crampton as persons from whom he received it.

Did he mention any other ?—Not that I know of.

Was Mr. Bucknell known to Mr. Hertz ?—He did not mention him as a person engaged in it, or who had engaged him in it.

Did he mention any other besides Mr. Crampton and Mr. Howe ?—Not that I know of.

Not that you recollect ?—I do not recollect any other person.

[Paper shown.] Is that the report you made to Mr. Crampton of the transaction ?—That is the report I made to Mr. Crampton.

Was it delivered to him ?—I sent it to Washington, but the bearer did not find Mr. Crampton there ; he had at that time gone up to Niagara. I sent a friend to Washington with this report to Crampton, to let him know everything that occurred.

When he did not find Crampton in Washington, where did he take it to ?—He took it to New York and left it with Mr. Stanley, the Vice-Consul there.

[The report was here given in evidence. It contains a full history of the transaction from the time the witness (Strobel) left Halifax until his return.]

It is as follows :—

“ To his Excellency Sir Gaspard le Marchant, Lieutenant-Governor of Nova Scotia.

“ Sir,

“ Windsor, Canada West, June 18, 1855.

“ After having laid before you my plan for raising troops for the British army in the United States and on the Canada frontier, I received from you, at the Provincial Building, Halifax, Nova Scotia, in the presence of his Excellency Mr. Crampton, Minister from Great Britain to the United States ; Mr. Preston, Lieutenant, 76th Regiment ; and officers of the Foreign Legion, the following instructions :—

“ “ You will repair immediately to the United States, accompanied and assisted by Drs. Aschenfeldt and Reuss, Lieutenant Shuman, Mr. Mirback, and four non-commissioned officers, to raise men for the British army within the

jurisdiction of that Government. You will, in accordance with your plan submitted to me, station said officers and non-commissioned officers at the posts agreed upon, unless it may, in your judgment, appear expedient to alter the details of said plan. You are also authorised to order back to Halifax any of your assistants who may, in your opinion, be incompetent for the service, or who may neglect the duty assigned to them. You will receive travelling expenses for yourself, officers, and non-commissioned officers; also, before leaving Halifax, the half-monthly pay as per estimates, in advance, for officers and men. At the expiration of the half-month, you are authorised to draw from Mr. Preston the half-monthly pay again in advance, and so on. You are further authorised to draw on Mr. Preston for such sums as you may require for the transportation of men, head-money, &c. You will receive all orders from me through Mr. Preston, whom you will consider as my Acting Aide-de-camp in this matter, and you will be the medium to transmit those orders to your officers, so that there can be neither interference with nor interruption of the plans laid down by you. Mr. Preston will be commanding officer of the recruiting dépôt at Niagara Town. You will exercise no interference with the transmission of men from Niagara to Halifax, but will confine yourself strictly to the duty of obtaining men in the United States, and of forwarding the same to Mr. Preston, at Niagara. You are authorised to employ such assistants as you in your judgment may deem necessary, and are further empowered to state, in my name, to any gentleman bringing a certain number of men, say 120, that they will receive from the British Government commissions as Captains in the Foreign Legion, and others, different commissions, in proportion to the number of men they may bring.

"In accordance with the above instructions, I started from Halifax on the 15th of May, accompanied by my officers, as above mentioned. At Windsor, Nova Scotia, I fell in with his Excellency Mr. Crampton, Lieutenant Preston, and Captain Bowls, who had left Halifax the same day. We travelled together to Portland, Maine, where we arrived on the 18th ultimo. Mr. Crampton requested me to go with him to Quebec, Lower Canada, as he was desirous that we should have a perfect understanding with and the full cooperation of his Excellency Sir Edmund Head, Governor of Canada. In compliance with this request, I ordered my officers and non-commissioned officers to repair to Niagara Falls, there to await my arrival. We arrived at Quebec on the 20th ultimo, and on the following day were received by his Excellency Sir Edmund Head, and held a conference with him, in which he offered his best assistance in forwarding our object, and at once gave up the barracks at Niagara Town as a recruiting dépôt, and accordingly sent for Major Elliot, which proceedings detained us until the 23rd ultimo. On the evening of that day, Lieutenant Preston, Captain Bowls, and myself started, in company with Major Elliot, for Montreal, where we arrived on the morning of the 24th of May. Arrangements were then entered into with Colonel Bell, in regard to the barracks at Niagara and La Prairie. On the following day I started alone for Niagara Falls, Canada West, where I arrived on the morning of the 27th. Lieutenant Preston and Captain Bowls started for Toronto on the 25th, and hence did not arrive at Niagara Falls till the 28th. These gentlemen remained at Niagara Falls till the 30th, when they took possession of Butler Barracks, and the first arrangements were made for forwarding recruits to the station.

"As your Excellency will here observe, I was, up to this moment, viz., the 30th or 31st of May, unable to move one step in the object of our expedition, it having required all the time to arrange the preliminaries. On the same day that Mr. Preston left for Niagara Town, I learned from Dr. Aschenfeldt and Mr. Shuman that the conduct of two of my non-commissioned officers, Serjeants Roth and Krieger, had been unworthy of the confidence reposed in them, and I therefore deemed it advisable to send the said men to Lieutenant Preston, at Niagara Town. I also thought it necessary to send to Niagara one of my officers for a double purpose: first, to act for Mr. Preston as interpreter on the arrival of recruits; and, secondly, as we were unable, actually, to enlist the men in Canada, I deemed it well that some German of experience and age should be with the recruits sent on, to keep them in proper spirits, and to prevent any loss by desertion from the barracks or *in transitu* to Halifax. I accordingly deputed Mr. Mirback for this service, and, with the license permitted me in your instructions of the 14th of May, was therefore obliged to modify my plan to suit this emergency. On the 30th instant I went with Lieutenant Shuman to Buffalo.

Having visited some of the localities in that place and Fort Erie, on the opposite shore of the Niagara river, I gave Lieutenant Shuman the following orders, in accordance with the instructions I had received from Mr. Crampton, and which I respectfully beg leave to subjoin : 1. I ordered Mr. Shuman to take up his quarters on the Canada shore, at the village of Fort Erie. 2. To have his non-commissioned officer, Corporal Kamper, stationed in Buffalo. 3. To go daily to Buffalo, and, in connection with Corporal Kamper, there to make such inquiries as might lead to the obtaining of men. 4. To send the men, as quickly as he should obtain them, to Lieutenant Preston, at Niagara, and at the same time to report to me regularly the number of men obtained, and all circumstances relating to them. 5. To take particular pains to lay out no monies on the American side, but whatever related to the expenditures to induce runners to bring men to him, should be positively and rigidly transacted on the Canada shore; and further, if it were necessary to keep men together for a longer term than one day, to be careful to do so without the precincts of the United States. This latter order is strictly in accordance with Articles 2 and 4 of Mr. Crampton's instructions. On the same evening, May 30, I ordered Dr. Reuss to leave for Detroit, and informed him that he would cooperate with Dr. Aschenfeldt, who would be stationed at Windsor, on the Canada shore of the Detroit river. I also communicated to him, in effect, the same orders I had already given to Mr. Shuman. I went to Niagara Town to draw the half-monthly advance pay for officers on the 31st of May. As Mr. Preston was unable to pay me the amount which I required, he gave me but 40*l.* sterling.

"On the 1st of June I left Niagara Town, accompanied by Dr. Aschenfeldt, for Cleveland, Ohio, where I had already stationed Serjeant Barchet. Passing through Buffalo, I saw Lieutenant Shuman, and supplied him with some money for a few days, until I should obtain the balance of the half-monthly pay from Mr. Preston. On the 2nd instant I saw Barchet in Cleveland, and supplied him with as much money as I could spare. On the 3rd I arrived with Dr. Aschenfeldt at Detroit; I saw Dr. Reuss, and supplied him with money. I then supplied Dr. Aschenfeldt with money, and left him at Windsor. On the 4th of June I again started for Niagara Town, in order to receive from Mr. Preston the balance of the second half-monthly pay, which, I must here remark, was a most useful journey, both as regards the expense and the loss of time. Had the money been properly forthcoming in the first instance, this journey would have been avoided, but I determined, as I was now obliged to go there, to make use of the journey as a means of again visiting the different posts, and paying to the officers the balance of their half-monthly dues. In this I was again frustrated by a failure of the Telegraph Office in sending me a despatch of Mr. Preston, as a cheque had already been sent by mail for the amount. In spite of this, however, I telegraphed from Niagara to Mr. Shuman, to meet me at Chippewa, and report to me the result of his proceedings in Buffalo. His report was, much to my regret, and contrary to all my expectations, very disheartening, he having sent but four or five men to Niagara.

"Having learned by letter from Albany, New York, that there was a fair prospect at that place of obtaining from fifty to one hundred men, I ordered Mr. Shuman to direct Corporal Kamper to undertake the whole business in Buffalo, and to repair at once to Albany, there to place himself in connection and communication with the Emigrant Offices and Intelligence Depôts there, and to use his most strenuous efforts to obtain men; also, to communicate with me at once on the subject. As I have already stated, the cheque for the balance of the pay had been sent to Windsor, while I was *in transitu* between that place and Niagara. I was, therefore, without money, and gave Lieutenant Shuman a draft on Mr. Preston for 20*l.* sterling, knowing that it would require at least three days for me to forward the money from Windsor to him. On presentation, Mr. Preston refused to honour the draft. Considering that these matters would be in proper train in Buffalo, and supposing that Shuman would leave at once for Albany, I returned to Windsor, in order to receive a report from Serjeant Barchet, stationed at Cleveland, and to inform myself how matters were progressing in Detroit. I returned to Windsor, Canada West, on the evening of the 7th instant. On the following morning, to my utter astonishment, Mr. Shuman, who was kept by Mr. Preston at the depôt, and in consequence of it was not able to see his men off at Buffalo again, nor to supply him with money, and to give him orders in regard to my sending Mr. Shuman to Albany, had left

Niagara, by order of Mr. Preston. The night-train came into Windsor in sixteen hours after my arrival, bringing me the subjoined order from Mr. Preston, marked X. As the order purports to have emanated from your Excellency, I promptly obeyed the same, and sent Mr. Shuman to Cleveland for Barchet's account, at the same time giving him those of Drs. Aschenfeldt and Reuss, and my own, giving him no further orders, but simply telling him to return to Mr. Preston as soon as possible. I had received from Barchet the information that matters in Cleveland were as disheartening as in Buffalo; also saying that a Mr. Seybert, who keeps an Intelligence Office there, was willing to undertake the business if we could station some one at Port Stanley, for the purpose of receiving men whom he would send there. I wrote to Mr. Preston, requesting him to send a non-commissioned officer, or some other person, to Port Stanley, to receive the men whom Mr. Seybert might send. This request was unattended to, and Mr. Preston did not even condescend to notice it.

"From all that I could learn, Chicago and Milwaukie offered large inducements as a field for our operations, and as I thought the port of Cleveland would have been provided for by Mr. Preston, in accordance with my request, I sent Barchet, on the 11th instant, in company with another man to Chicago, also Dr. Reuss to Toledo, which place I had myself visited and deemed a good port for obtaining men. I directed Barchet to communicate with me by telegraph or otherwise, as soon as my presence and the money for tickets should be requisite in Chicago for bringing men to Niagara.

"On this day, the 11th instant, Mr. Theo. A. Oehlschlager arrived at Windsor from Niagara Falls. Mr. Oehlschlager is a gentleman already known to Mr. Crampton, and of whom Mr. Crampton and myself had several conversations. I spoke very favourably of him, and Mr. Crampton advised me to obtain so valuable an assistant. Mr. Oehlschlager is a British subject by birth, being a native of Quebec, Lower Canada, speaking German like a native and French with fluency; the value of his assistance cannot be overestimated. Having, as I have already stated, lost two non-commissioned officers, and having stationed one officer permanently with Mr. Preston, I felt the necessity of more assistance, and knowing no one more competent, I accordingly wrote for him from Cleveland on the 2nd June. I remained at Windsor the 12th and 13th instant, in the expectation of receiving a letter from Barchet, and also anticipating the return of Dr. Reuss from Toledo with men. On the morning of the 13th I received a letter from Barchet, stating that Chicago was a capital place, and that a great many men might there be obtained, but it would be necessary to forward them immediately, as it would be impossible to keep them long together. I accordingly wrote at once a letter to Mr. Preston, requesting him to send me 100*l.* sterling. Before this letter was mailed, I received the following despatch from Mr. Preston: 'Send Aschenfeldt back immediately.' I accordingly did so, sending the letter I had written by Dr. Aschenfeldt.

"On the following day, Dr. Reuss returned from Toledo, bringing with him four men, stating at the same time that a number of from eighty to a hundred men may be obtained alone in Toledo. He also brought very good news from Sandusky and Monroe. I then received a despatch from Dr. Aschenfeldt, saying, 'We all go back; more by letter.' Having collected some eleven men at Windsor, besides seven already forwarded from this place from Niagara, and deeming the expedition, from some unknown cause, entirely broken up, I telegraphed to Mr. Preston, asking what I should do with the men. His answer was—'Forward men. Recall Barchet, and return to-morrow.' Not comprehending the whole business, I deemed it best to repair at once to Niagara and have the mystery cleared up.

"I accordingly started the next morning, leaving Mr. Oehlschlager in my place at Windsor. I arrived at Niagara on the morning of the 16th. I was cordially received by Mr. Preston, who informed me, that having held several conversations with Major Browne, Mr. Wieland, and other gentlemen, he had come to the conclusion that we (myself and the officers under my charge) had neglected our duty, and that he had two charges in particular to make against me: 1st. That I had ordered two of my officers to remain on the Canada shore. 2nd. That I, myself, had remained too long inactive at Windsor, Canada West. In consequence he had deemed it his duty to send a despatch to your Excellency

acquainting you with said disposition on our parts. That you had replied, directing him to act on his own responsibility. That thus empowered he had deemed it proper to recall all those employed and send them back to Halifax.

"I informed Mr. Preston that I would at once comply with the order of your Excellency; at the same time I assured him of my opinion as to the unadvised and rash proceedings he had deemed it proper to adopt; and further expressed my belief in his having been influenced in these measures by Major Brown, Mr. Wieland, particularly, and others, who are anxious, to my perfect knowledge, to obtain commands in the Foreign Legion. While in Niagara Town, I saw a despatch from this Mr. Browne to Lieutenant Preston, stating in effect that my letter to Mr. Preston, on the 13th instant, was a falsehood, and that there were no men in Chicago to be sent. The following is, I think, the wording of the despatch: 'The fifty men a myth.' Having some little personal business in Windsor, and wishing to communicate with Mr. Oehlschlager, I returned here this morning. On my arrival Mr. Oehlschlager informed me that shortly after my departure on the 15th instant, a Mr. Browne arrived here from Mr. Preston. He represented himself, or at least led Mr. Oehlschlager to believe that he was a Major in the British service. Mr. Oehlschlager, under such a supposition, believing him to be an officer in the British army, and an authorised agent of your Excellency's, immediately gave up the charge of the post and of the men. Mr. Browne sent the men on to Niagara that evening, in charge of Dr. Reuss, who left yesterday for Halifax. I also found here a despatch from Chicago from a man named Konen, employed by me at that place, which fully substantiates the good news contained in Barchet's letter. It reads as follows: 'Come here immediately; twenty ready; tickets wanted.'

"I have thus far, your Excellency, attempted to give a rough outline of what I have done since my departure from Halifax, and shall now leave it with yourself to judge whether the time has been wantonly thrown away, and whether I have neglected my duty or not. There have, it is true, been many causes which have rendered the expedition less successful than I had imagined in the offset, but over these circumstances I have, as you may judge from the above statement, been able to exercise but little or no control. Besides, your Excellency will be pleased to take into consideration that we have not had more than eight or nine working days of real trial. We did not get fully into operation before the 4th or 5th. On the 7th Mr. Shumann was withdrawn by order of Mr. Preston. Not before the 9th the bills we had printed were in our hands and posted. The 10th was Sunday. On the 13th the expedition was virtually broken up, Dr. Aschenfeld recalled, and your Excellency in possession of a despatch to that effect.

"The difficulties under which we had to labour, were in the beginning very great. In the first place, shortly before our arrival the navigation of the great lakes was opened, and thousands of men, who had lain idle for months, were at once thrown into employment. A week before Mr. Shumann arrived at Buffalo, 600 working men had been withdrawn from that place to work on the telegraph line through Newfoundland. In short, work was plenty, and the weather mild; it is therefore but little wonder that under such auspicious circumstances we did not succeed at once. Then the Americans have, in every city in which we have been, a recruiting officer, where they offered 12 dollars per month, and bounty of 160 acres of land, and besides giving head money to the runners. Again, a great antipathy appears to prevail throughout the United States to British service, and a strong mistrust of the whole business, from the occurrence relating thereto, which took place in the Eastern cities. These difficulties had to be overcome, and just when we arrived at a point where the prospects began to brighten, and we had tangible hopes of our ultimate success, the whole matter, as far as ourselves are concerned, is given up, without my being in the slightest instance consulted or advised with. From certain remarks of this Mr. Browne, I am led to believe that the conduct of the money matters of the expedition has also been called in question. In refutation of any such malignant charge, I respectfully beg leave to subjoin my accounts, and request that those of my officers may be strictly examined.

"A few words in relation to the charges made against me by Mr. Preston. The first is simply enough refuted by all that part of the above statement which refers to my orders and instructions to Dr. Aschenfeld and Mr. Shumann. Of the second I have but to observe that when I started from Halifax I was under

the impression that I was given charge of this expedition in the United States; that I had discretionary power to take up my head-quarters where I deemed best, and where I could most readily hear from my assistants; and not that my conduct was to be subject to the espionage and impertinent interference of men of whom I had no knowledge whatever, in connection with this expedition. I refer to Mr. Browne and others. Nor can I conceive how Mr. Preston could commit such a gross error as he has done, in breaking up this expedition, without stronger and more sufficient reasons.

"I have now to make a few remarks on Mr. Preston's conduct in connection with this business, which, however painful it may be, I consider it my duty to your Excellency, under whose orders I have been engaged in this matter, and to myself. Mr. Preston in the first place, as early as the 7th instant, violated the spirit and letter of your instructions to me in two instances. First,—By failing to pay my draft sent by Mr. Shumann. And, secondly,—by sending Mr. Shumann down to Windsor, when I sent him to Albany. In short, I have failed to meet from Mr. Preston that cordial cooperation and friendly assistance which I had hoped for, and on which the success of such an expedition so eminently depends. I feel pleasure, however, in saying that I can look upon this failure on the part of Mr. Preston in no other light than as an error of judgment, and his being too easily influenced by others.

"With the above statement of the facts of the last month, and which I am ready to substantiate at any moment, by the testimony of my officers and others, I beg leave to submit this, my report, to your Excellency's kind consideration.

"I have, &c.

(Signed) "MAX FRANZ OTTO STROBEL,
"Captain, Foreign Legion."

Mr. Remak.—Was this paper ever delivered?—It was delivered to Mr. Crampton and Sir Gaspard le Marchant.

Mr. Van Dyke.—Did Mr. Hertz say anything to you in reference to having advertised in any paper in Philadelphia?—Yes, sir, the advertisement was in Mr. Hertz's office, in the newspapers.

Did he say anything to you as to his advertising?—He said he was obliged to have it advertised in order to get men.

What advertised?—This Proclamation. Mr. Hertz sent men to the office of the paper to see if it was advertised.

When was that?—I cannot recollect the very date; it was before I went away with my company.

Do you recollect the advertisement?—Yes, Sir, I recollect the advertisement; I have seen it in the paper, but do not recollect the very day.

What do you know of Mr. Hertz putting this (showing witness the "Pennsylvanian" containing the advertisement) in the paper?—Mr. Hertz says, "I suppose by this advertisement we should get some men."

Where did you last see Hertz, before sailing from Philadelphia with your men?—I saw Mr. Hertz on the boat. He came down in the morning to the wharf where we sailed from, and it was at that very moment that he gave me the money, twenty-five dollars.

On the boat "Delaware," on which you sailed on Sunday morning, of March 16, 1855?—Yes, sir.

Will you state to the Court and jury whether you recommended to Mr. Crampton a certain Colonel Burghthal?

Mr. Remak objected. Objection was sustained.

By Mr. Van Dyke:—

Is there anything else you recollect in connection with Mr. Hertz that you have not stated? If there is, state it. Any conversations that you had with Mr. Hertz or Mr. Crampton about Mr. Hertz being engaged in this business?—I remember a conversation with Crampton about Hertz, where Crampton said he believed—

(The question and answers were ruled out.)

Do you recollect any conversation Mr. Hertz had with any person, or any conversation you had with him?—I heard many conversations of Mr. Hertz with other officers who left for Halifax. It was a promise Hertz made to these men in the name of Mr. Howe, and through Mr. Howe in the name of the English Government, to give them commissions in the Foreign Legion, if they

would go to Halifax, if they were military men before, and so on, and when some of them would express doubts on the subjects, Mr. Hertz would try and prove that he had really the power to promise.

Anything else?—I remember there was some money given to the men by Mr. Hertz.

Which men?—To the men who enlisted.

What was money given them for?—To pay board to the very day they sailed from the time of enlistment to the time of leaving.

Who paid for the tickets?—I suppose Mr. Hertz; I do not know.

Who gave the tickets?—Mr. Hertz did.

For the 78 you took?—Yes, sir.

You say you had 100 in your company, how happened it that you only took that number?—Afterwards some men were sent from Philadelphia.

How did it happen that you first had 100 men, and only took 78 with you?—The other parties came on afterwards, and were put to my company as they came on, particularly men from Philadelphia.

What become of this company?—It sailed on the 8th of August for Portsmouth, England, to equip for its destination.

(Cards shown witness.) What are these?—These are cards which were given to the men to get a passage on board the boat. Mr. Hertz got the cards; I do not know where he got them from.

What is that on it?—It is "H."

Whose signature is it?—Mr. Hertz.

What is the meaning of "N. S. R. C."?—It means Nova Scotia Railroad Company, I suppose.

The ticket was given in evidence, the following is a copy :

"N. S. R. C.

"H."

Did you take these tickets all the way to Nova Scotia?—Every man had one of those tickets, and they passed him on the boat.

Cross-examined by Mr. Remak.

Did you see Mr. Hertz of your own notion, or did any body request you to go to see him?—I was requested by Dr. Biell to see Mr. Hertz, as I had seen Crampton only a few weeks before.

Did you know Hertz before that time, before Biell mentioned his name?—No, sir.

You did not know him at all?—No, sir.

You had already seen Mr. Crampton at the time Biell spoke to you?—Yes, sir; Biell told me Hertz had a letter which he had shown him.

Mr. Remak.—There is no use saying that. You saw Hertz on the 10th of March?—Yes, sir.

Where did you see him?—At his office, 68, South Third-street.

Did you know the business of Mr. Hertz?—Yes, sir, he was enlisting men for the foreign service; Mr. Hertz himself said so when I came up there.

Was it not at his office you said people came in and enlisted and entered their names in a book?—Yes, sir.

(Showing book.) Here is the book presented to you; do you swear that this is the identical book you saw there?—Yes, sir.

Were all the names here entered by the persons themselves, or by whom?—Not exactly all these names; many of the men signed their names themselves, and others could not write, and Mr. Hertz or somebody wrote down the names.

Now be so good as to describe this book; does it contain anything but the names and places of residence?—It contains the names of those men; most of them I took with me, as my company, to Halifax.

And contains the residence of some?—Yes, sir, of some.

It contains nothing else?—It contained at that time the names of several officers willing to go; it contains now but those names.

You say you received money from Mr. Hertz?—Yes, sir.

For what purpose?—I received money from Mr. Hertz, and was obliged to give him a kind of note, in which I stated I had received so much money, and it would be repaid.

(Showing witness a paper.) Is this paper signed by you?—Yes, sir.
The paper was read as follows:

“I received from Mr. Hertz 5 dollars on my word of honour.
(Signed) “MAX F. O. STROBEL.”

Mr. Remak.—The figures are blotted, and it looks as if it had been altered from 5 dollars to 25 dollars.

Witness.—The signature is true, but I believe the 25 is false. I actually received, on my word of honour, from Mr. Hertz 10 dollars; but I never remember having given Hertz a receipt for this 25 dollars I received on board the boat; I never remember, but there is a possibility.

You stated in your examination in chief that you received 25 dollars the day you started?—Yes, Sir, I received 25 dollars that day.

You state now you do not remember having given a receipt for it?—I do not remember; I acknowledge this signature; that might be another note I gave to Hertz, stating I only received 5 dollars. This is my signature.

You received 25 dollars on that day; and this paper states in numbers 25?—It states here 25 dollars. I do not recollect signing any paper for 25 dollars. I recollect saying to Mr. Bucknell that I received that sum.

Judge Kane.—Is this material?

Mr. Remak.—It is for the purpose of showing that money has been loaned to the witness.

You say you were present when several different men came in at different times and signed their names in that book? What were the conversations between Hertz and those persons?—The conversation was, that he showed the parties the proclamation or advertisement; and he said, There is a Foreign Legion, as you see, in Halifax, and if you feel able and disposed to enter this Foreign Legion in Halifax, I will give you the means to go to Halifax as a soldier in that Legion; that is, if you are willing to go to Halifax and be enlisted for this foreign service.

Can you swear that Hertz ever said “to enlist as a soldier for the foreign service?”—I can swear that he said he wanted them to go to Halifax for the purpose of enlisting in the British service.

Did he pay anything to them?—He paid to several of them, but not every one. To some of them he paid 1 dollar; to some, 25 cents; and to some, 50 cents.

Do you recollect the names of any of the men to whom he gave 25 cents?—To Purde, and several others; their names are in the list.

Were any of these persons very poor?—Yes, sir, some of them were.

Did you know that these people were actually in want of food?—Not in want of food.

Do you believe that these people had any money at all?—I believe they had none.

Were they not looking out for work?—They had been looking out for work.

And could they get it?—They said they could, but as they were detained they must be paid.

They could get work, they said?—If they would not be retained.

Did these people use the word “retained?”—They said they could get work if they were not kept waiting here doing nothing, and being promised every day that this vessel should sail for Halifax.

Then these people did not employ the expression “retained?”—Well, they were retained.

Mr. Remak.—You have to give the conversation exactly as it took place; be very strict. What language did these people speak?—In the German.

Then they had no idea of the word “retained?”—We have a word in German that means as much.

What is it?—“Augeholten.”

Mr. Remak.—May it please your Honour, that word means detained.

Did not these people mean to say that their time was wasted by being unemployed?—No, sir; they said, or meant by saying so, that their time was taken by Mr. Hertz.

Did not some people come into the office who declined to go to Halifax?—Not that I remember. Some of them came once, but never afterwards.

What did Hertz say when they declined? if you recollect they did decline?
—I do not remember that any one declined.

Did Mr. Hertz offer them anything the moment he spoke of going to Halifax?

—Not at that moment.

Mr. Hertz did not offer them anything when he asked them to go to Halifax?

—No, sir.

Did he actually ask them to go to Halifax?—Yes, sir.

Did he not leave it optional? Did he not represent the matter that they would get employment there?

Witness.—Get employment in Halifax?

Mr. Remak.—Some employment.

Witness.—No, sir, that could not be, because this advertisement was laying on the table, and for that purpose the men came up.

When the men came in, you say Hertz did not offer them anything. When they were ready to go to Halifax what did Hertz say?—Mr. Hertz said, “I have a vessel ready for you to start in a day or so.”

Did he state for what purpose this vessel would start?—For conveying these men to the Foreign Legion at Halifax.

You stated that he gave some men 1 dollar, and some 25 cents. To how many of the men did he give anything at all?—It is very difficult to say.

Did he give to twenty?—I suppose that is the number.

Have you been present every time he gave these men something?—Not every time, but he gave to that many in my presence.

Then you remember that he gave to more than twenty?—Not to more than twenty. I cannot say that he gave to more than twenty.

Then you do not know if he gave to any one else?—No, sir.

The names you remember, mention now.—Barrier, Blecher, Brining, Foley, Worrell.

[The Court here overruled the question.]

You stated, in your examination-in-chief, that some of the men received money to board?—Yes, sir.

How much did they receive?—I cannot tell whether Hertz gave 3s. or 4s. To some he gave 3s., some 4s., and, perhaps, some a dollar.

Did Mr. Hertz ever promise you a commission?—Yes, sir.

Where did he promise you?—In his office.

In whose presence?—In the presence of Mr. Rumberg and Lieutenant Essen.

Did he show you any authority for doing so?—I believed he had, because he made me himself acquainted about the letters and orders he had received from the British Government; and I showed him my letters, although I never saw his letters. He promised me a commission.

Did Mr. Hertz derive any benefit from all the transactions you know of?—I cannot tell.

You remember that you said in your examination-in-chief, that Mr. Hertz said himself that what he had received did not cover expenses?—At that time.

Do you know, from your own knowledge, that Hertz has received at any other time any more money?—I cannot swear that Hertz received more money than he expended, but I can swear he received money.

Then he did not derive any benefit from his business transactions?—I do not know.

As far as you know?—As far as I know, no; but I cannot see into his business matters, certainly.

Could Mr. Hertz have any direct benefit from the fact of any of those men going to Halifax?—Yes, sir.

In what manner?—He would receive four dollars for every head.

Would the four dollars come from the man himself?—No, sir; it would be paid by the English Government; the man could not pay, but the English Government paid four dollars for every head.

Can you say whether any agreement has taken place between Hertz and you, or with any of these men, with regard to the transaction?—Yes, sir.

What was the character of it?—The agreement was, that I take this company to Halifax, and I was introduced to the men of the company as their Captain; and I had to bring them up to Halifax.

Did you derive any benefit from this matter? You received money, did you not?—I received no money except that necessary to take the men to Halifax, and their tickets.

You received no money?—No money for myself, but money to take the men there for the Government.

You received no money for yourself?—No money for myself from the Government. What I received for doing this was the commission.

Did you receive from Hertz any money?—I received as a private matter 10 dollars from Hertz; but I received 25 dollars to feed the men on the boat.

Then, Mr. Strobel, had you any direct authority from the English Government at the time?

Witness—Direct authority to do what?

Mr. Remak—Any authority at all; I do not care what it is. Did you hold any commission?—Just the commission as promised by Hertz.

You had no commission?—I had no commission at that time.

Then you cannot say you were at the time the representative of the English Government, or agent of that Government?—Certainly, I was insomuch an agent that I agreed with the English Government to bring men to Halifax.

You considered yourself so?—I did not consider, I thought so.

When did you agree with the English Government?—So early as the beginning of April, with Mr. Crampton.

Did you agree to take the identical men you started with on the 25th of March?—No, sir; not those men, but any men.

Then you had no other authority but what you thought you had from Hertz when you took these men?—Not for bringing these very men I named here.

Judge Kane.—The witness says he had authority from Mr. Crampton to take such men as should be enlisted, and that it was from Hertz that he got the directions of the particular persons enlisted, and who were to be carried on.

Did you make any promise to Hertz in return for the so-called authority he gave you?—Yes, sir.

What was the promise?—I promised Mr. Hertz that, upon arriving in Halifax, I would state that Mr. Hertz had sent these men, and that he had a great many more men, and had made arrangements with parties in New York, but was not able to send them; and I was to secure him every man he sent from Philadelphia to Halifax.

Did you ever pay to Mr. Hertz afterwards anything for the trouble he took to send men to Halifax?—I did not.

Do you know whether any body else paid Hertz for the trouble he took on that day or any other time?—I do not know; I know that Hertz received money for the men in New York.

Did you ever see Mr. Crampton in the presence of any body else?—Yes, sir.

Who was present?—I saw Mr. Crampton in the presence of Dr. Ruess, for instance, Major Boutz, Serjeant Burgit, and Rose, and others; I travelled with Crampton and Preston, in company with other gentlemen, up to Quebec from Halifax. These instructions were in the handwriting of Crampton.

I want to know if Hertz ever read those instructions?—I do not know whether Mr. Crampton sent him a copy of them or not.

Then you do not know whether he had ever any knowledge of these instructions?—They were written after I left here, and I could, therefore, not tell.

Monday's Proceedings, September 24, 1855.

Horace B. Mann, sworn. Examined by Mr. Van Dyke.

Are you engaged in the "Pennsylvanian" office?—Yes, sir.

(Paper shown witness.) Do you know whether that advertisement was ordered to be published there?—As regards ordering the advertisement, I do not know anything about it, but that is a copy of the "Pennsylvanian."

Do you know anything about the discontinuing of it?—Yes, sir; it was ordered to be discontinued by Mr. Hertz; I discontinued it at his order.

Is that the receipt for the advertisement?—That is the receipt for the payment of that advertisement; Mr. Magill is the person who received the advertisement; the paper in which it appears was published March 16, and the receipt is dated March 15.

The receipt was here read in evidence as follows :—

“ Philadelphia, March 15th, 1855.

“ Lieutenant-Governor of Nova Scotia, to Advertising in the ‘ Pennsylvanian,’
 “ 2 Squares for one month 5 dollars.

“ Received Payment for the Proprietor,
 (Signed)

“ WILLIAM MAGILL.”

Max F. O. Strobel, re-called. Examined by Mr. Van Dyke.

You have been sworn?—Yes, sir.

You are acquainted with the handwriting of Mr. Howe?—I have seen it.

What position did he hold in March and February, 1855?—He was the general agent of the British Government in the States for this recruiting.

(Paper shown witness.) Will you look at that paper and say whether it is in his handwriting?—I believe it is Mr. Howe’s handwriting; I have seen him write.

The paper was here read in evidence, Mr. Van Dyke stating it was the original of the advertisement which appeared in the papers in regard to this matter. It is as follows :—

“ The Lieutenant-Governor of Nova Scotia is empowered by Her Britannic Majesty’s Government to raise any number of men, which may be required, to serve in the Foreign Legion.

“ Depots are established at Halifax, and all able-bodied men, between the ages of twenty and thirty-five, who may present themselves, will be enlisted.

“ The terms of service will be three or five years.

“ Officers who have seen service are eligible for commissions.

“ Surgeons speaking the continental languages, or some of them, will be required.

“ Pensions or gratuities for wounds or eminent services in the field will also be given.

“ On the expiration of the term for which they enlist, the troops will be sent to their native countries or to America.”

You said you are acquainted with Mr. Crampton’s handwriting?—Yes, sir.

(Paper shown.) Is that his writing?—That is Mr. Crampton’s handwriting.

By Mr. Cuyler.—You have seen him write, you say?—Yes, sir.

The paper was here read in evidence, as follows :

“ Sir,

“ Saturday, January 27, 1855.

“ I should be happy to see you at any time you may choose to call, to-day or to-morrow.

“ I am, &c.

“ Mr. Hertz.

(Signed)

“ JOHN F. CRAMPTON.”

[ENVELOPE.]

“ Mr. HERTZ,

“ J. F. C.

Willard’s.”

(Another paper shown.) Is that also in Mr. Crampton’s handwriting?—Yes, sir, that is Mr. Crampton’s handwriting.

The paper, which was read, is as follows :—

“ Sir,

“ Washington, February 4, 1855.

“ With reference to our late conversation, I am now enabled to give you some more definite information on the subject to which it related.

“ I am, &c.

“ H. Hertz, Esq. . .

(Signed)

“ JOHN F. CRAMPTON.”

[ENVELOPE.]

"Paid, J. F. C.
"Washington, Feb. 4,
"D. C.

"H. HERTZ, Esq.
"424 N. Twelfth-street, Philadelphia."

Do you know Mr. Wilkins' handwriting?—Yes, sir.

Is he Provincial Secretary?—Yes, sir.

(Paper shown witness.) Is that his writing?—It is. I have seen him write; that is his signature on the back of it.

Do you know whether Hertz was in Halifax in June?—Yes, sir, he was in Halifax in June.

Do you recollect the day?—I cannot recollect what day; it was in the beginning of the month.

In whose handwriting is the direction on the envelope?—I believe it is Wilkins' too.

The paper, with envelope, was read in evidence, as follows:—

"Sir,

"Provincial Secretary's Office, June 11, 1855.

"I am in receipt of your letter of this date, and am commanded by his Excellency Sir Gaspard le Marchant to inform you that in reference to the claim advanced in your communication, Mr. Howe; previous to his departure for England, distinctly stated to his Excellency that the moneys which you had received on account more than cancelled any claim that you might prefer.

"Any instructions given to Mr. Howe by Sir Gaspard will speak for themselves, whilst Mr. Howe will best account for his own acts on his return from England.

"In his absence nothing can possibly be done by Sir Gaspard, in relation to yourself.

"You must consider this a final answer given by his Excellency's command.

"I have, &c.

(Signed) "LEWIS M. WILKINS."

"Mr. H. Hertz.

[ENVELOPE.]

"On Her Majesty's Service.

"MR. H. HERTZ.

"Provincial Secretary's Office."

Are you acquainted with the British Secretary of Legation?—Yes, sir, I have seen him.

Do you know his handwriting?—I have seen his writing, but never saw him write. I never had any conversation with Mr. Lumley. I always addressed my letters to Mr. Crampton or Mr. Lumley; I never received any replies from Mr. Lumley.

The defendant's counsel admit the paper to be in the handwriting of Mr. Lumley, and it is read in evidence as follows:

"Sir,

"Washington, May 31, 1855

"In the absence of Mr. Crampton I beg to acknowledge the receipt of your letter of the 20th instant. Although I am not aware that I have had the advantage of making your acquaintance, I beg to inform you, as Secretary of Her Majesty's Legation, that no charge against you of the nature to which you refer has been made to me. It is, therefore, superfluous to add that I have never expressed the opinion reported to you as having been used by me.

"I am, &c.

(Signed) "T. SAVILE LUMLEY."

[ENVELOPE.]

Paid, T. S. L.
"Washington, May 31,
"D. C.

"HENRY HERTZ,
"424, North Twelfth Street, below Coates,
"Philadelphia, Pa."

Did you know the Vice-Consul at New York?—Yes, sir.

What is his name?—Mr. Stanley.

Do you know his writing?—Yes, sir, I have seen him write.

(Letter shown to witness.) Is that a letter of Mr. Stanley's?—Yes, sir.

The letter and envelope was read in evidence as follows :

" Sir,

" New York, June 19th, 1855.

" I am obliged to you for the cutting from the newspaper which you forwarded with the note of the 17th, both being received by me yesterday. I do not understand the spirit evinced by the writer of the newspaper paragraph. I am not yet aware of any United States' laws being broken in the matter to which he has reference, and have not the slightest interest therein.

" Regarding your claim against the Nova Scotia Government, I have not received any communication from that quarter, as you led me to expect would be the case. As I informed you when in the city, it is not possible that I should be acquainted with the subject, but if so ordered, I shall be happy to remit you the amount.

" I have seen Mr. Mathew, who happened to be in New York, being in hopes that I might procure, through him, some information which would aid you in this matter, but being unsuccessful in obtaining any, it is utterly out of my power to forward your views.

" Remaining, &c.

(Signed) " C. H. STANLEY."

[ENVELOPE.]

" MR. H. HERTZ,

" New York,
" June 19.

" 424, North Twelfth Street,
" Philadelphia."

(A card here shown witness.) Do you recollect that card?—Yes, sir.

It is written in what language?—In German.

Do you know whose writing it is in?—It is a card written by Mr. Benas, at the request of Mr. Hertz.

Who was Mr. Benas?—He was at that time with Mr. Hertz; I do not know Mr. Benas himself. He was with Mr. Hertz, and this was brought to me by a man who came up to Halifax and enlisted in my company.

Did he go with you?—No, sir, he was sent to my company at Halifax by Mr. Hertz, and he brought this card to me, recommending this man to me as secretary of a company.

This man was enlisted in your company?—Yes, sir.

Before you left?—No, sir.

He came on after the company left here, then?—Yes, sir.

By Mr. Cuyler.—Did you see this card written?—I could not have seen it, because I was in Halifax, and this man brought it up there.

Do you know Mr. Benas who signs it?—I know him now; I did not know him at that time.

Are you familiar with his writing?—I never saw him writing, and cannot say of my own knowledge that this card is in his writing, but it was brought to me from this very man.

Mr. Cuyler objected to the reading of the card in evidence.

It was shown to the jury, but as it was in German, few read it. We present a translation :

" I recommend to you the bearer of this card, Mr. Sporer, an excellent and perfect penman; if it lies in your power to obtain for him a position as clerk in your company, you will thereby greatly serve me.

(Signed) " M. BENAS."

" By request of H. Hertz."

Do you know Turnbull?—Yes, sir.

What was he in June 1855?—He was at that time an agent for Mr. Crampton.

Where is he located?—He was sent to the West, to Cincinnati, to aid Colonel Korponay.

(Letter shown witness.) Is that his letter to you?—That is Mr. Turnbull's letter to me from Cincinnati.

Mr. Van Dyke offered the letter in evidence.

Mr. Cuyler objected.

The objection was sustained, and the letter ruled out.

Charles Rumberg sworn. Examined by Mr. Van Dyke.

What is your business?—I have been editor of the Philadelphia "German Democrat," and I am now editor of a German paper at Pottsville, and co-editor of the "Adopted American" here.

Will you state whether you have ever been in the army?—Yes, sir, I have been in the army of several German States. I have been Captain. I came to this country nine years ago.

State whether you ever saw Mr. Crampton.—I have not seen Mr. Crampton. I have seen Mr. Mathew.

Will you state what took place between you and Mathew?—After having read the proclamation and resolution of the British Government for enlisting able-bodied men for the Foreign Legion—

That is the one passed in Parliament?—Yes, sir; asking for recruiting able-bodied men for the Foreign Legion. I went to Mr. Mathew, and said to him that I could enlist from 400 to 500 men. Well, I made no arrangements in relation to the enlistment with Mr. Mathew, but I gave him a letter to the British Minister of Foreign Affairs in London, and he told me he would transmit it there.

How long after that did you see Mr. Howe?—Six or eight weeks after that.

Where did you first see him?—He came to my office in Third Street, and asked me to agree with him as to the terms for enlisting men for this Legion, and I replied to him that I would come on another day to see him for the arrangement of that matter. I went to him, and met Mr. Hertz.

Where at?—Jones's Hotel.

What took place there?—After having some conversation with him, I considered it too hazardous and dangerous to go into that concern, and then I retired. I declined to engage.

Did you see him afterwards?—Yes, sir, but at that time Mr. Howe promised to give me a commission in the Legion.

Was Mr. Hertz present at that time?—Mr. Hertz was present at that time.

What else did he say to you?—That was all.

What inducement did he hold out to you in order to get you to go into this business?—I did not know at that time precisely that the laws of the United States forbid the recruiting, and, not believing that it was against the law, I would have gone into it, but, after having consulted with many of my friends, I came to the resolution to decline.

Did you see him afterwards?—No, I did not see him after that.

The original draft of the proclamation which Mr. Strobel testified was the handwriting of Mr. Howe, and is given above (see page 48), was here shown the witness, and the question was asked him whether he had ever seen it. He answered, I have seen that paper before; I have translated it, and it has been inserted in the Philadelphia "Democrat," "German Democrat," and "Free Press."

Who asked you to translate and insert it?—Mr. Hertz.

Did you ever go to Mr. Hertz's office?—I have been to it once or twice; it was only to see what was going on.

Did you ever go to collect money for his advertisement?—No, sir; I think Mr. Murris, the clerk, did that.

What was going on there when you went there?—I have seen there many men, but it was not my business to look at it.

Did you ever ask Hertz, or did he ever tell you without being asked, how many men he sent to Halifax?—Yes, sir; he told me he sent 100 or so on to Halifax.

Did he say what he sent them for?—No.

Did he tell you who took them?—It was only in a conversation in the street, and I was not particular.

Did he ever say anything to you in reference to your going there yourself to take the command?—Yes, sir, he has told me to go, and I have replied that I would not.

How often did you see Hertz in the presence of Howe?—I believe, twice.

When was the second time?—That was when I declined.

Was Mr. Hertz with Howe when you saw him at your office?—No, sir, there was nobody with him.

You only saw him, then, once at your office, and once in the presence of Mr. Hertz, at Jones's Hotel?—Yes, sir.

Cross-examined by Mr. Remak.

Did you not know Hertz before Howe introduced him?—Yes, sir; I have spoken to him.

You have stated that at first you were inclined to go into this matter. Did you not write in your paper articles in favour of the Foreign Legion?—No, sir.

Did not your paper contain such articles?—I believe not.

Do you not remember that the democratic paper, at whose head you were at the time, had articles against it?—I believe it had articles against it.

And were not you yourself in favour of this Foreign Legion?—No, sir, I was not in favour of it.

Did you not induce Hertz to put in that advertisement?—No, sir; he desired me. I translated it.

Did you not go to Mr. Howe in order to induce him to do something in relation to this translation?—Not to my recollection; nothing of the kind.

Mr. Van Dyke here showed witness an advertisement in a German paper, and asked him whether it was a translation of the original paper which was handed him?—It is the translation.

You put that in at whose request?—For a month, I think.

Who asked you to publish it?—I published it at the request of Mr. Hertz.

By Mr. Cuyler.—Where did he (Hertz) ask you to translate it?—He asked me to translate it and insert it in our paper.

By Mr. Cuyler.—At what place did he ask you?—I remember not, but I believe it was in his office.

Mr. Cuyler.—You are perfectly sure that Hertz asked you?—I am sure Hertz asked me to translate it and insert it in the "Free Press" and "Philadelphia Democrat."

Mr. Cuyler.—Did Hertz personally himself ask you?—Yes, sir.

Mr. Van Dyke here gave in evidence the German translation of the original proclamation, as published in the German papers of this city. The original can be found in Strobel's testimony on page 48.

Thomas L. Bucknell, sworn. Examined by Mr. Van Dyke.

Will you state to the court and jury all you know of this matter?—Well, on the 18th of March it was I heard that the Honourable Joseph Howe, who was either president or director of the railroad in the province, was in New York, and I went on in the 5 o'clock train. I wished to see the procession of the 17th of March, "St. Patrick's day," and I thought I might see both together. I saw him at half-past 11 o'clock on the 16th, at Delmonico's Hotel. I spoke to him of what I had visited New York for, and he told me he would see me again and see what he could do about giving me employment as civil engineer. He said you can be of use to me in one or two matters while in the city. He gave me some ten sovereigns, I think, to go to bank to get changed into American money and buy some stationery. Well, I bought the stationery, and got the money changed, and went back and gave the money up, and that was the last I saw of him on that day. On the 17th, I called again, and he asked me to dine with him. I dined with him about half-past 4, and showed him my testimonials from different engineers. Two or three gentlemen came in while at dinner, and the conversation stopped about what he could do for me. I do not think I

saw him then until Monday, and he asked me if in the course of my walks through the city I would call for him at the Metropolitan Hotel and see if there were any letters for him. I called there and got two letters and brought them to him ; he had gone out for the evening, and I left them with the book-keeper. I forget now whether I sent them up to his room or left them with the book-keeper. I called next day, I think it was on Tuesday, and he asked me whether I would like to go on to Philadelphia and Washington. I said it was all the same to me where I go, for I have nothing else to do ; so he gave me a parcel tied up, I don't know whether it was directed or not, to leave with a man by the name of Hertz, at No. 68, South Third-street, Philadelphia. I brought the parcel on, and called next morning at No. 68, South Third-street, and asked if there was a man by the name of Hertz there. There was a small-sized man in the room, and he said that Mr. Hertz was in the next room and he would call him. He called him, and he came out and said, I am Hertz. I then said, The Honourable Joseph Howe directed me to leave this with you, and you will please give me a receipt for it. I then left the parcel. That was all the conversation I had with him on that occasion. I left his office and went with some printed or sealed documents to Washington.

From him ?—No, sir, from Howe. I did not get any answer to those. I came back again. The sealed documents were directed to Mr. Crampton. He (Mr. Crampton) asked me when I left New York. I told him about leaving this parcel at Hertz's, and he told me he would recommend me to call back that way and get it again.

You are sure it was him ?—Yes, sir, I am certain. He told me to call that way again. I called at Hertz's office on my way back, and gave him the receipt I had taken for the papers, and took away the papers I had left at his office. That was the last I saw of Hertz until I saw him at the office.

What papers were they ?—They are the printed circulars that came from Halifax ; the circulars with the British coat of arms upon it.

Judge Kane.—The witness spoke of that as an inclosed parcel ?

Witness.—There was no cover on it, there was only a piece of twine around the parcel and I could see what they were. I took them when I came back and rolled them up myself and brought them back to New York. [Circular shown witness with the British coat of arms upon it, a copy of which is already published. See copy on page 47.] That is the circular I saw.

You went back to New York after that ?—Yes, sir.

Did you see Howe ?—Yes, sir.

Were you there when Mr. Strobel came ?—Yes, sir ; I saw Mr. Strobel.

Did you give him any money ?—No, sir, not to Mr. Strobel. At the request of Mr. Howe, I gave 100 dollars to Mr. Hertz.

To Mr. Strobel and him together ?—Yes, sir.

At the Astor House ?—No, sir, at Delmonico's.

What did Hertz do with the money ?—I do not much mind.

Did not you see what he did with it ?—I saw him get a receipt for part of it from Mr. Strobel ; I believe it was 80 dollars.

Did you see the men that Strobel had there ?—No, sir.

Magnus Benas affirmed. Examined by Mr. Van Dyke.

Where do you live ?—No. 218, North Fourth-street. My business is pocket-book making. I know Hertz.

State what you saw in reference to these enlistments ?—I got acquainted with Hertz about eight days before he was arrested. I was down at the wharf as the steamer "Sanford" left, and I was in his office on the same day and afterwards. I got in his employ about a week afterwards.

You got in Hertz's office ?—Yes, sir, in Mr. Hertz's employ.

About eight days before he was arrested ?—No, sir, after he was arrested : about the 2nd of April.

Still in the same office ?—Yes, sir.

Well, then, what did he engage you for ?—Well, for transacting his business. It was a commission office.

Did you write that "card" to Halifax at his request ?—I wrote that "card" on my own account. It was for an acquaintance of mine, and I wrote it on my own account.

Do you know anything about the office for recruiting, and Mr. Hertz's connection with it?—Well, I heard something, but I did not know anything before.

Did he tell you anything about the office kept by the Baron Von Schwartzenhorn? State what you know about Hertz engaging Von Schwartzenhorn.—There was a conversation between the Baron Von Schwartzenhorn and Hertz.

By Mr. Cuyler.—In your presence?—Yes, sir; they met at 68, South Third-street, and agreed that Von Schwartzenhorn should see to getting the men, and Hertz procured the vessels to bring them to Halifax, and accordingly Hertz sent me at different times to the office of the English Consul to inquire about vessels loading for Halifax. Merchant vessels, mostly schooners.

That was for the men whom Baron Von Schwartzenhorn was getting?—Yes, sir; I was about four or five times in the office and got about five vessels; two of the vessels I recollect the names of, they were the “Gold Hunter” and “Boneita.”

Were men sent in there vessels?—Yes, sir; they were sailing vessels, direct for Halifax.

Were they English vessels?—Yes, sir, I guess so; I do not know sure.

Did you see any of the vessels?—Yes, sir, I saw them all.

Did you see the names of any of them?—Yes, sir, I told you.

Where did they hail from?—I do not know.

How many men did you ever see off in a vessel?—I saw them off, once four men and another time six, but never more than six were in one vessel.

What was the character of these vessels?—They were schooners.

Was it at the request of Hertz that you went to the British Consul's to know when merchant vessels were going to sail for the purpose of sending the men Baron Von Schwartzenhorn had engaged?—Yes, sir.

Where did the Baron Von Schwartzenhorn keep his office?—He lived at the corner of Fourth and Brown.

This was after the arrest of Hertz?—Yes, sir, it was.

Do you know at whose request the Baron commenced to engage men?—I do not know.

Card shown witness, a translation of which is published at bottom of page 69 ante.) Look at the bottom of that card and say if you have not stated at whose request you wrote it?—I did it of my own accord, and wrote that down to let Mr. Strobel know that I was in the employ of Hertz.

Is it not written at the request of Hertz, at the bottom?—I wrote it so, but it was on my own account.

Do you know Schuminski?—Yes, sir, I saw him. He was not engaged at the request of Mr. Hertz, but of the Baron Von Schwartzenhorn. He was with the Baron.

They acted together?—Yes, sir.

Do you know how many men the Baron got altogether?—No, sir, I do not know; I guess about twenty or twenty-six, I cannot tell for sure.

Did Hertz ever tell you how many men he sent altogether?—No, sir.

Cross-examined by Mr. Remak.

Mr. Baron Von Schwartzenhorn was not requested then by Mr. Hertz to send men?—No, sir.

Do you know Winsor and other gentlemen who procured the vessels?—I do not know anything about it.

Was Mr. Hertz exactly in the position of Winsor and other gentlemen who had vessels at their disposal?—I do not know. Mr. Hertz sent me to the English Consul to inquire about vessels loading for Halifax, that is all I know. I know they were for sending the men to Halifax that the Baron Von Schwartzenhorn procured.

Did you not know that the Baron was indicted at this Court?—Yes, sir, I knew that.

By Mr. Van Dyke.—Do you know where he is now?—In Halifax.

What is he doing?—I do not know.

Charles Burghall sworn.

This witness was a German, who could not speak English, and Mr. Theodore H. Oehlschlager was sworn as interpreter.

Examined by Mr. Van Dyke.

Where are you from?—From Vienna.

In what service have you been?—Military.

In what military service?—The Austrian.

What official position did you hold?—I was a Major and Lieutenant-Colonel in the Engineer service.

When did you come to this country?—The 28th of September, 1848.

Where had you been located with your command before you came here?—In Hungary.

At what place?—At Komorn.

Did you at any time see Mr. Crampton, in reference to recruiting for the British Government?—Yes, sir.

State when you first saw him, and how you happened to go to see him.—I was engaged as superintendent on the Panama Railroad, but being sick returned to the United States and went to see Mr. Marcy and Mr. Cushing and other gentlemen, and when in Washington became acquainted with Captain Strobel. I knew Mr. Strobel previous to this, five years before. Mr. Strobel informed me that Mr. Crampton was seeking officers for this business. In the end of February I went out with Mr. Strobel to see Mr. Crampton; I went to Mr. Crampton's with Mr. Strobel, he was not at home; he was at a dinner party at Mr. Marcy's; I left my card there, and went to Baltimore to my family; four or five days afterwards I received a telegraphic despatch from Mr. Crampton, requesting me to return to Washington; the next day I did so; I went over there, and was with Mr. Crampton, and held a conversation of over an hour with him, relative to this recruiting business; he made me a proposition requesting me to enter the regiment as Colonel; I observed to him that I would not enter the service unless there was a perfect security as to my getting a commission, as I did not wish again to enter the service of a despotic Power.

What do you mean by "perfect security"?—I mean a commission from the Queen, as no one else was able to give a commission.

What else occurred?—Then I came to Philadelphia in the beginning of March, and saw Strobel here; I also made the acquaintance of Mr. Hertz. About the 10th or 12th of March Mr. Howe came here and visited me.

Did Mr. Howe call on you of his own accord?—He looked for me and visited me of his own accord, having heard from Mr. Rumberg that I was there.

State the conversation between Mr. Howe and you.—He made the same proposition. He stated that he had officers here, in Baltimore, in New York, in Chicago, and in different parts of the country. He then told me that he would obtain for me a commission; that he had authority from Mr. Crampton so to do; I refused the offer, having other employment here at the time. Afterwards Mr. Howe visited me with two or three other gentlemen, and invited me to Jones's Hotel. I went to him and dined with him and those other gentlemen. I informed him at dinner of my opinion in relation to this recruiting business, that it had been forbidden in the United States. He showed me two placards, one in German and the other in English, and also a journey card and ticket; and told me that he did not think he could be laid hold of in the matter.

Mr. Remak.—He said that he felt certain that nothing could be done to him?—That nothing could be done against him in the United States. He also requested me, if I came to New York, to visit him at Delmonico's Hotel. I went there, but did not meddle any further in the matter, nor go to see him.

Did you at any time see Mr. Hertz, or have any conversation with him?—I saw Mr. Hertz very often when I came to see Mr. Strobel.

Where at?—Mr. Hertz's office in Third-street.

What was he doing?—I do not know; he was writing: people came there for him, they came to see him.

Did Hertz have any conversation with you?—I said nothing to him; I simply saluted him.

Had he any conversation with you in reference to recruiting men?—Yes, sir, he spoke of it.

What did he say?—He said that he sent people to Halifax, but not for military service; that he had a commission to do so.

What did he send them for?—I had my opinions as to why they were sent there, but I did not tell him, nor did he tell me.

William Budd sworn. Examined by Mr. Van Dyke.

Are you acquainted with Mr. Hertz?—Since the 13th of March.

Where were you made acquainted with him?—I was introduced to him as the agent in this city for the recruiting for the Foreign Legion.

State what took place.

Judge Kane.—What was the character of the introduction?

Witness.—He was introduced to me as the agent, by my friend Mr. Strobel. We went down there one morning, and after some preliminary conversation between Hertz and Strobel, he introduced me to him. Strobel remained in the outside room, and he asked me whether I would go to Halifax; he said that he was agent of the Foreign Legion, and asked me whether I had called to receive information about it. I told him I had; he then told me that commissions were to be issued for men who would go on there, and he supposed that I would get one. I then gave him my address, and he requested me to call again, and he would let me know when the first expedition started, to step in every day and see him, and see what was going on. I did so. He engaged me to go there, for the purpose of obtaining a commission.

State the conversation fully that occurred between him and you, in reference to your going there.—Well, we had a great many conversations; almost every day we talked about it.

When did you first agree with him to go to Halifax, for the purpose of obtaining a commission? State the conversation that then took place.—I did not agree on the first interview; I told him I would think about it.

What did he say at that interview?—He promised me a commission.

Did he ask you to go with that view?—Yes, sir, he did.

And you told him you would think about it?—Yes, sir.

What next took place?—After two or three days, he asked me if I had made up my mind; I told him yes, I would go to Halifax, and see what took place when I got there. He then intended to send me with Captain Strobel, but I concluded not to go; there was not men enough going, and I preferred to hear from him and hear how he got on when he got there. It was on a Sunday when he started, and I did not go with him.

What did you do from the Sunday up to the time you started?—On Monday, Hertz was in New York.

Who had charge of the office while he was gone to New York?—Bosschart and myself were there, and we took several persons down who came in there.

Did you do that at the request of Hertz?—We did, at his request.

Who was Bosschart acting for?—I understood he was acting for Hertz.

Did you raise any men in that time?—About 25 or 30.

What did you do with them?—The day before we started, they all came there, and we gave them tickets, and told them to be down at the New York boat next morning. I went down there after I received instructions from Hertz where to go in New York.

What instructions did you receive from him?—He told me to go to Delmonico's Hotel, and call and see Bucknell. We started, and did not get any further than the Navy Yard, when we were arrested.

You took the men?—I did not take them; they were down on the boat.

They were in your command?—I had no real command; I was considered as leader of the party.

By an arrangement with Hertz?—Yes, sir.

How many had you?—About 30 when we started; I only saw 12 when the arrest was made. I think there was 30. It was on a Wednesday. I am not sure whether it was on Wednesday following the Sunday that Strobel went on with men.

Did you see the men go on the boat?—I did, sir, and told several of them to hurry up or they would lose their passage. I took the tickets from them after we had started down the river.

What boat was you on board?—The "Delaware" or "Sandford;" one of the New York line. The "Delaware," I think.

(Tickets shown witness, same as copied on page 63.) State whether those are the tickets used.—I do not know. Tickets like those the men had; and

after they got on the boat, the Captain told me to muster them, and take them up.

They got those tickets from Mr. Hertz and yourself, you have said. Where did you get the tickets you gave them?—From Mr. Hertz; and when the tickets were taken from them, I gave them other tickets which the clerk of the boat gave me.

Who settled with the boat for those tickets?—I do not know.

You started in the boat, and were going down the river?—Yes, sir.

What happened then?—When I mustered them and found there was so few, I was looking for the rest, when Mr. Jenkins came up to me and told me he would like to see me, that he had a warrant for me, and the Marshal would be up alongside in a steamboat in a few minutes. I told him, "Very well." They searched me for papers, and brought me up to the office. I do not recollect the names of any of the company.

Had you a muster-roll?—I had.

Where is it?—I rather think I tore it up when I was arrested.

(Book containing the names of the men who had enlisted at Hertz's office shown.) Do you know that?—Yes, sir.

What is it?—I cannot say exactly whether it is part of Strobel's company or mine; I rather think it is mine. Several of the men who had enlisted to go with Strobel's company did not go with him, but went with me; and this list is part of Strobel's and part of mine, I think. I do not know whose writing it is in; Mr. Hertz gave me the list, and I supposed he wrote it. I have seen the book in Mr. Hertz's office.

(Paper shown witness containing a list of names.) Do you know if that was the list of your company?—I think it was, to best of my knowledge, and I think I made those marks on it. I had no list besides this.

(Another paper shown witness similar to the first.) Is that a copy of this?—Yes, sir, I expect so.

[Mr. Van Dyke here offered in evidence the list of names, which the witness identified as containing the names of the members of this company, from which some of the bills had been drawn. The list is read in evidence.]

Do you recollect the names of James Johnson or Peter Muhn?—I do not.

Do you recollect Mr. Bucknell's coming into the office with the handbill?—Yes, sir.

Do you know whether Mr. Hertz took them, and what he did with them? (Bill containing the British coat of arms shown witness, same as copied on page 47.) Is that the bill?—Yes, sir.

What did Mr. Hertz do with them?—Several were stuck up around the office and on the outside, and several were sent to be distributed. I understood they were sent around to the Lager Beer Saloons.

What became of the bills?—Mr. Bucknell took some away, and the rest were burned.

How did that happen?—I went in one morning, and saw some excitement. They were shoving the papers in the stove, and they told me that Mr. Bucknell had taken the rest of them away with him.

Did you ever see Mr. Perkins in the office?—No, sir.

What did Mr. Hertz tell you was to be the destination of the men you took?—Halifax.

What were they to do there?—To enlist in the Foreign Legion, if they were found physically competent.

Was there a physician at the office, for the purpose of examining men that came there?—No, sir.

Do you know what he was paid for getting these men?—I do not know the exact agreement.

Did you ever see any telegraphing or letters written by Mr. Hertz?—Yes, sir.

State what the telegraph contained?—I saw him write a telegraph despatch to Bucknell; he told him to wait.

Did you see any letters written by Hertz?—Yes, sir.

State what it contained?

(Mr. Cuyler objected.)

To whom was the letter addressed?—To Mr. Bucknell.

Mr. Bucknell was here recalled.

Have you got that letter written by Mr. Hertz?—I never remember his sending one.

Did you ever receive the telegraphic despatch he sent you?—Not that I can remember.

Mr. Budd's examination continued.

State what was in that letter?

(*Mr. Cuyler* objected.)

Where did you last see the letter?—On Mr. Hertz's desk.

Who was at the desk at the time?—Mr. Hertz himself; he was writing at the time.

Have you seen it since?—No, sir.

Do you know whether it was ever put in the Post Office?—No, sir.

By Mr. Cuyler.—Have you any knowledge of it except that it was a simple sheet of paper on which he was writing?—Yes, sir; he informed me of the nature of it, and read part of it to me.

By Mr. Van Dyke.—Did he give that letter to you after it was written?—No, sir.

You have no knowledge of what became of it?—No, sir.

Go on, and state, to the best of your knowledge and recollection, what it was that Mr. Hertz wrote on that sheet of paper?—Mr. Hertz was writing, and I was waiting in the outer office. He asked me how I spelt my name, and told me that he was writing about me, and stating that I was coming on next day. I then went around to where he was writing, and he again asked me how I spelt my name; and I looked over his shoulder, and saw he was writing to the agent in New York, that I was coming on with men, and he hoped, he wrote, that he would keep his word, and send him on money at the rate of four dollars for superior brands, and two dollars for inferior brands.

What did he mean by superior and inferior brands; did he give you to understand?—No, sir, he did not. I understood this perfectly. It meant men.

Did you see him writing any telegraphic despatch?—I saw him write a telegraph asking whether I should come on next day or not; I forget who took it to the office.

Was there anything in it besides that?—He did not use my name; he asked whether he should send twenty or thirty parcels next day.

Do you know whether he got an answer?—Yes, sir.

What was the answer?—"Yes." It was signed "B." I think it was, "Yes, all right." It was in the affirmative. He then told me to get ready to go next morning.

Did he say anything to you in reference to getting directions in New York as to what to do?—He told me I would get directions for money or assistance from the agent at Delmonico's Hotel to proceed on to Halifax.

Did he mention the name of the person there?—He asked me whether I would know Bucknell again, and I told him yes.

Did Hertz give you any money before you left?—No, sir.

Have you had any conversation with him after your arrest?—Oh yes.

What was it?—He said so much I cannot state it.

State what he said in reference to this recruiting business after you were arrested?—After they had arrested me, the Marshal went on shore and arrested Hertz, at his office, and they kept us in the "Delaware" a couple of hours, until they had preparations made for our reception. The Deputy-Marshal kept the boat out, and when we came up to the office I found Mr. Hertz here. He said, "All right, I will bail you out," and I did not think anything more about it until I was committed.

Did he say anything about remaining quiet?—Not then, not until the latter part, when I had some difficulty in procuring bail.

What did he say to you then?—He said, Keep quiet, I will have you out;

he afterwards said something about the matter ; it was to keep my mouth shut, it would be all right, I would be well paid for it.

Cross-examined by Mr. Cuyler.

When was it you were arrested ?—I cannot exactly remember the day, but it is very well known ; I think it was in the latter part of March.

Was there any previous communication between yourself and the United States' officers before the arrest ?—None whatever.

This arrest was not then in consequence of any conversation between yourself and the authorities, directly or indirectly ?—No, sir.

Your arrest was a complete surprise to yourself ? Yes, sir, to me ; I was totally unprepared for it.

Where did the conversation take place when he told you to keep your mouth shut ?—Once down in the prison, and once in the Commissioner's office.

By Mr. Remak.—In what country were you born ?—I decline answering that question, as it implicates myself. I have been advised to decline answering it.

By Mr. Van Dyke.—Did you ever state under oath where you were born ?—Never.

By Mr. Cuyler.—Do I understand you to say distinctly that to answer the question, where you were born, would involve you in a criminal prosecution ?—No, sir ; but to answer whether I am citizen or not would involve me in a prosecution.

By Mr. Remak.—Have you not been arrested and held to bail before the United States' Commissioner, Heazlitt, on the charge of having retained and hired men for the foreign service ?—I believe so ; that is the charge on which I was arrested and held to bail for a further hearing.

And was you not on the 28th of March, 1855, a defendant before Commissioner Heazlitt ; that was the day you were arrested ?—Yes, sir.

Did you not turn State's evidence on the 28th of March, against Mr. Hertz ?—I believe that was the first day I gave evidence.

Did you not say before the United States' Commissioner that Hertz had promised you money in case you would keep your mouth shut ?—I did so at that time.

Did you not receive that money because you were in very destitute circumstances ?—No, sir, I did not.

Had you any money in your pocket the time you were in prison ?—I had.

How much ?—I had sufficient.

You stated in your examination-in-chief, that Strobel introduced you to Hertz, as an agent of the English Government ; why did you not say so before the United States' Commissioner ?—I said so ; I do not know whether I used the exact words, but to the same sense.

It is here in the published report of the proceedings, that you said ; " I was introduced to Hertz, about the 15th of March, by Mr. Strobel ; was introduced to Hertz as the person who would give me all the information about organizing the Foreign Legion in Nova Scotia." Did you not say that ?—Yes, sir.

You said to-day, that you were introduced to him as the agent of the English Government ?—For that purpose.

Did you or did you not state before the United States' Commissioner, that Hertz was introduced to you as the agent for the English Government ; you say now that he was introduced as the agent of the English Government ?—He was introduced to me as agent appointed in this city by the Government for whom the Foreign Legion was to be raised.

You said that he was introduced to you there as the person who gave the information ?—In that capacity.

You did not employ the word " agent ?"—I do not recollect it.

Did you not say before the United States' Commissioner that it was left optional to any person coming into the office whether he would go to Halifax or not, or what he would do there ?—I said that of course it was left optional with the recruits to go to Halifax ; but after they got there force was to be used to induce them to enlist.

Did you then state to the United States' Commissioner that Hertz was the agent to enlist those persons for foreign service ?—I did not say so.

Did you not state to the United States' Commissioner that Hertz sent men to Halifax, and it was immaterial to him what they were going to do there?—I do recollect that Hertz sent them to Halifax for the purpose of being enlisted in the Foreign Legion; of course he had nothing to do with them after they got there.

Do you remember the 31st of March, when Richard Vaux was your counsel, and when Benjamin Rush made that great speech; were not you a defendant at the beginning of that period?—I do not know.

Mr. Van Dyke.—There is no dispute about it. He was a defendant, and was discharged by the Commissioner by my direction.

Mr. Remak.—It is for the jury to know. I desire to know whether or not the witness, on the 31st of March, was a defendant, and had made up his mind to turn State's evidence at the time?

Mr. Van Dyke.—I discharged him for the purpose of using him as a witness.

Mr. Remak.—I desire the answer of the witness.

Witness.—I think I made up my mind; I think so, I am not positive.

Did not Mr. Hertz say to you, that he had no power whatever to give commissions?—He said he had not power to issue commissions here.

He said he had no power to give any commissions?—Here.

Do you believe he had any power to do so?—I really do not know.

Was Mr. Strobel present when you conversed with Mr. Hertz?—On some occasions. On the first occasion he was present during only the first part of the conversation.

Who else was present?—No person.

Did you not desire to see Mr. Hertz yourself?—After I was informed that he was the general agent of the English Government I did.

Had you a desire to enlist in foreign service?—No, sir; I was not going to enlist, I was to receive a commission, not to enlist.

And you say Hertz did not promise you any commission at all?—I did not say so. I said he promised me that the fact of my going on there would insure me a commission when I got there.

He had not power to give one?—Not here.

From whom did you receive tickets?—From Mr. Hertz.

What were the tickets for?—To give to those men I was going to take on, to get their passage. Nothing else was given to the men.

You state, I think, that able-bodied men could be attested in Halifax, if they proved physically competent?—Yes, sir.

Did you hear Mr. Hertz say at any time that "physically competent" men would be received at Halifax?—No, sir, not these exact words; he has said if they were sound, and has asked me if they were all right.

Why did you not say that before the United States' Commissioner?—I suppose I was not asked; I do not know the reason I did not.

Did not your examination before the United States' Commissioner last for some time—for two hours?—I do not know; it lasted for some time; I could not exactly say what time.

Were not you asked at the time all you knew about it?—I was, but I may have forgotten some particulars; I had heard so much that I could not remember exactly all.

How comes it that you remember it now and not then?—There is some conversation which I related then that I cannot remember now.

Who have you had conversations with in the meantime about this proceeding, that is, from the 31st of March to this 23rd of September?—With a great many persons with whom I am acquainted; I merely talked the matter over.

Were not you very partial to carrying on the war in Europe against Russia, and for that reason you wanted a commission?—I do not know, sir; I never remember expressing my sentiments; I wanted to go there to have a fight, and I did not care which side I went on.

Have you not changed since that time in regard to the war in Europe?—No, sir, not in the least.

You are now on the Russian side?—No, sir, I am not now on any side.

Mr. Van Dyke here stated, that as the attorney for the defence (Mr. Remak) had seen fit, in order to impeach the testimony of Mr. Budd, to read a part of his testimony before the United States' Commissioner; in justice to Mr. Budd

he deemed it proper, in corroboration of the testimony of the witness, to read the whole of the testimony before the Commissioner, that the jury might see that there is no discrepancy in the two statements. (Mr. Budd's testimony before United States' Commissioner Heazlitt is here read by Mr. Van Dyke.)

John Jacob Bosschart sworn. Examined by Mr. Van Dyke.

Do you know Mr. Hertz?—Yes, sir.

How long have you been acquainted with him.—I guess I got acquainted with him last March.

Where did you first get acquainted with him?—I do not know exactly whether I got acquainted with him at my own house or first at his office, No. 68, South Third-street. I think it was at my house. I was in the habit of attending his office during the month of March.

State all that took place between you and him, and between him and other persons in relation to enlisting for the Foreign Legion.—I was first made acquainted with the business by Mr. Leob. He told me that Mr. Hertz had entered into the business of recruiting for the British Foreign Legion. Some-time afterwards, Dr. Biell, who was boarding with me at the time, told me about it, and I soon after saw an advertisement in the "German Democrat," "Pennsylvanian" and "Ledger," that they wanted men for the British Foreign Legion; that every one who chose to go to No. 68, South Third-street, would learn the particulars. Dr. Biell and Aschenfeld went down there, and I went too, to see what was going on; I saw the officers and men going there; and spoke to Mr. Hertz about this Foreign Legion, and about their pay and commissions. Some of them signed their names in a book, and some of them were taken down by Hertz himself.

What was the character of the conversation which took place between Mr. Hertz and the men when they came up there?—The men came in, and generally asked if that was the Recruiting Office, or office to enlist men for the Foreign Legion. The reply generally was that there was no recruiting office, and that they could not be enlisted there; but if they chose to go to Halifax they might be enlisted there. Then he showed them the handbills, which stated that 30 dollars bounty was given, and 8 dollars a-month to the men: he said that it was in his power to give them a commission.

[The handbill shown witness containing British coat of arms, already published; see page 47.] Is this the kind of handbill which he showed them?—Yes, sir.

What did the men say they wanted to go to Halifax for?—They wanted to go to Halifax to serve in the Foreign Legion; that is, the men who came to the office.

Did he engage them to go there for that purpose?—As I understood, he engaged them to go for that purpose.

To enlist when they got there?—Yes, sir.

And they told him that that was their intention when they got there?—Yes, sir, they told him that.

How long were you with him in that office?—I was there every day from the beginning of the business until we were arrested.

Do you recollect any physician who examined the men?—Well, I recollect that Dr. Biell examined some of them.

Do you know what Mr. Hertz was to get for sending on these men?—No, sir.

Do you know who employed Mr. Hertz to do this business?—I was told Mr. Howe employed him.

Who told you?—I do not recollect who told me.

Do you recollect Mr. Hertz ever saying anything about it?—I heard Hertz talk frequently about Howe, but cannot recollect distinctly that he said that Howe employed him.

Did Hertz, in speaking of the manner in which he was employed to conduct this business, speak of Howe as being connected with his being employed?—Yes, sir.

Did Mr. Hertz ever say anything to you about Mr. Crampton having employed him?—He told me he had seen Mr. Crampton on the subject.

What did he say had taken place between him and Mr. Crampton?—He did not say what had taken place between him and Mr. Crampton—not that I recollect.

You recollect the departure of Captain Strobel and his company?—Yes, sir.

Were you at the wharf at the time?—Yes, sir.

Was Hertz there?—Yes, sir.

To assist in getting them of?—Yes, sir.

Did he engage that company to go to Halifax?—Yes, sir.

For what purpose?—For the purpose of enlisting in the Foreign Legion, as I understood.

Do you know whether he went to New York to make arrangements for sending that company from New York to Boston?—That company started from here on Sunday morning at 10 o'clock, and Mr. Hertz went to New York on Sunday night in the half-past 1 o'clock train, to make arrangements to see that the men got off from New York. He returned to this city on Monday night or Tuesday morning. I saw him on Tuesday morning again in the office.

While he was away, who had charge of the office?—I had charge of the office.

Were you directed to conduct the business for him while he was away?—Yes, sir.

And those men who were enlisted during the absence of Hertz on Monday, were engaged by you at the direction of Hertz?—Yes, sir; I took the names on a piece of paper as directed, and told the men Hertz would be back on Tuesday, and find a vessel to bring them on to Halifax.

Why did you not take the names in the book during his absence?—I guess I was directed by Hertz to take them down on the paper.

(Paper shown witness.) Is that in your writing?—I could not say whose writing it is; some of it is written by me; two of the names are written by me, Robert Korn and Peter Sable. It is the list which was kept in the office. That list contained the names of those who engaged to go.

(Another paper shown.) Is that another list of the names kept in the office?—Yes, sir; there is none of my writing on that.

(Book containing the names of those who enlisted, which has already been partly published, shown.) Look at that book, and say whether you see any of Hertz's writing in it.—The names on the first page I think are all written by the men—on the second page also; and on the third page some of them are written by Hertz.

(List of officers in the back of the book shown witness.) What is that?—That is the list of the officers. It is in Mr. Hertz's writing. It contains the names of Strobel, Esson, Shumaun, Biel, Lisepenny, Budd, Aschenfeld, Riter, and Anglere. I know those men engaged to go as officers; some of them as non-commissioned officers, and some of them as commissioned officers.

Do you know what pay Mr. Hertz got for this?—No, sir.

(Tickets shown.) Did you see many of this kind of tickets about the office?—Yes, sir, there was a great many of those tickets.

Did the men who went in Strobel's company get any tickets?—I guess so. I am not certain.

(Another book shown.) Do you know that book?—I saw that book once there.

Whose writing is that in it?—I guess it is the writing of a man in the employ of Mr. Hertz—Mr. Holm. I do not know exactly, but I think so.

(Book read in evidence, from which it appeared that Hertz was debited with 750 dollars, and credited by cash with 300 dollars, and then charged with 758 tickets.)

Do you know who he got that cash from?—No, sir.

[Some handbills were shown witness, same as on page 47.] How many of those handbills did you see about there?—I could not tell how many. I saw a package of them. Mr. Bucknell brought them.

Were any of them posted about?—Yes, sir.

By whom?—I cannot tell.

Who directed it to be done?—Mr. Hertz.

Do you know who paid the "German Democrat" for the advertisement of this call?—Mr. Hertz did.

Where did he pay?—In his office.

Who called for it?—The clerk of the "Democrat," Mr. Morris.

Did you see him pay?—I saw him pay.

You were arrested at the office?—Yes, sir.

With Mr. Hertz on the morning that the steamer started?—Yes, sir.

Was it before or after the men were arrested?—On the very same day.

It might have been earlier in the day or later in the day?—It was after the men had started. Mr. Budd was put in command of them.

Do you recollect the list of the names of those who went with Mr. Budd?—I think that is the last list shown me, but I am not sure of it.

Do you know whether all those who went with Budd were engaged by Hertz to go with him?—They were engaged by Hertz to go to Halifax.

[The witness was here questioned by Judge Kane as to the larger book which he had identified as containing a list of the names of persons enlisted.]

Was anything written in this book on the page preceeding that containing the name?—No, sir; it is a list of officers, with their rank.

It has been cut out?—Yes, sir, the list of officers is cut out.

It was the list of officers with their rank?—Yes, sir; they put their names down, and the rank they were to hold there was put down by Hertz. I mean military rank.

That was all on the page cut out?—Yes, sir; there are two leaves cut out; one was for the commissioned officers and one for the non-commissioned officers. I recollect there is a list of officers written in the back of the book after they were cut out, and that was just a memorandum.

Dr. Peter Joseph Reuss sworn. Examined by Mr. Van Dyke.

You are a physician?—Yes, sir.

What country do you belong to?—Hesse; I have been in this country this 26th of September is four years.

Will you state whether you came to Philadelphia in March or April last, and for what purpose?—I came to Philadelphia for the purpose of going to Halifax; I was to go to New York and thence to Montreal; I came here induced by a proclamation in the "Philadelphia German Democrat;" I went through here to New York, and from New York to Halifax.

Did you stop at Hertz's here?—No, sir.

Why not?

(Mr. Remak objected.)

Had Hertz been arrested at the time you arrived here?—I do not know that, because I did not stop in Philadelphia; I went to New York and Montreal, and then to Boston, and from Boston to Halifax in the "Africa."

Is that the steamer?—No, sir, the barque "Africa."

When you got to Halifax, where did you go, and who did you see?—I went to the provincial building, and spoke with Mr. Wilkins and Mr. Bruce M'Donald.

Mr. Remak.—Be good enough to bring this home to Hertz.

By Mr. Van Dyke.—Have you at any time had any conversation with Hertz, before or after that?—No, sir.

When you arrived in Halifax, state what you did.—I went to the provincial building and met Wilkins, the first secretary of Nova Scotia, and the same day afterward I spoke with Sir Gaspard le Marchant, the Governor of Nova Scotia. I sent some days before a letter in the French language to Sir Gaspard le Marchant, and told him what I came to Halifax for—that I was induced by his proclamation. I had sent a man before to No. 68, South Third-street, Philadelphia, to see what the business was, because it was in the proclamation that physicians and surgeons would be engaged with good pay, and this man came back and told me that the whole business had been stopped by the United States' Attorney, and that he had spoken with one man on the subject, but he did not tell me his name, and he told him that the business was all right, to go to Halifax, and I would be engaged as a physician for the regiment. I wrote the letter but did not receive any answer, because the business was stopped. In Halifax, the Governor told me that I could not be engaged unless I raised men. I refused that because I told him I did not come for that business; I came to be engaged as doctor, and not as recruiting officer. Mr. Wilkins called on me some time

afterwards, and told me that if I raised men in the United States, I should be engaged, but not if I refused, and then I was obliged to go, because the Governor told me I could not be engaged without this ; then I was employed as officer of recruiting, and went with Captain Strobel to the States, and was sent by him to Detroit in Michigan.

Did you hear any conversation at any time between certain gentlemen when Mr. Crampton was present?—Yes, sir, in Halifax, on the 15th of May, we met Mr. Crampton.

Who told you to meet him?—Strobel called on me the 14th of May, and told me to come to the Provincial Building, Halifax, and meet Mr. Crampton and Sir Gaspard le Marchant, and I went and found there Lieutenant Preston and Strobel, and some other officers.

What took place in that conversation?—That conversation was that we should go to the United States and raise troops.

Who told you to do that?—Mr. Crampton and Sir Gaspard le Marchant, with Mr. Strobel.

They said that to Strobel?—Yes, sir, and that he would go to Canada and the States and arrange this so that we could raise troops without danger.

What plan did they give you to raise these troops without danger?—That is what they spoke to Captain Strobel.—I did not hear every word, but heard them tell him that we should go to the States and arrange the business, so that we cannot be caught by the United States' officers.

They told Captain Strobel that he should go to the States and arrange business so as not to be caught by the United States' officers?—Yes, sir.

Who told Strobel that?—Mr. Crampton, he made the arrangements with Strobel and spoke that to Sir Gaspard le Marchant.

What plan did Mr. Crampton say you were to adopt in the States to prevent being caught by the officers?—That we should do it very still, not to work too openly, and that we should engage runners and any other men who would bring men to the dépôts, and from these dépôts we were to send them to Canada West, to the barracks.

What kind of runners did he speak of your engaging?—Boarding-house runners, emigration runners, commission-house runners, and every kind of runners, I believe.

Did he say anything in reference to what you were to say to these men?—That every man was to receive 30 dollars, and 5 dollars were to be taken for payment of expenses ; that is what I learned from Strobel afterwards, that is what was promised the men.

Was anything said about that in conversation with Mr. Crampton?—No, sir, not to me—it was spoken to Mr. Strobel.

He told Strobel they were to have 30 dollars?—Yes, sir, and 8 dollars a month pay—cash. The bounty was given for enlisting. Each runner should receive 5 dollars a-head for enlistments.

That was the pay of the runner?—Yes, sir, if the man was capable of being enlisted, not if the man was refused.

Were they to get any pay for men refused?—No, sir.

Then it was only for the men who arrived at the barracks and got enlisted that they were paid 4 dollars a-head for?—Yes, sir.

Did you receive any money at that time for this purpose?—On the 14th of May I received from Captain Strobel 220 dollars.

Where did he get it from?—Out of the Provincial Building. Mr. Bruce McDonald gave him the money in my presence. He is the clerk of Mr. Wilkins, or Second Secretary ; I do not know which it is.

What were you to do with that 220 dollars?—To run to the United States or these men ; that was the pay for half a month for myself and one sergeant.

Did you see Mr. Crampton after that?—We left next day, the 19th of May, and we came to Windsor in Nova Scotia, and when we got there we took the steamer to St. John's.

Where did you next meet Mr. Crampton?—I saw him in Windsor, and saw him on the ship to St. John's, and next day at Portland. At Windsor, we took the "Creole" for St. John's, and I saw Mr. Crampton in the presence of Lieutenant Preston and another English officer, I do not know his name. He came on board to us there at St. John's. He talked very often to Captain Strobel, and I went in the same ship with him to Portland.

Did you see him afterwards in Portland?—No, sir; I know he left the steamer at Portland.

Where for?—To go to Montreal.

Who went with him?—I believe Captain Strobel; I took the cars for Boston, and from Boston to Niagara Falls.

For this purpose?—Yes, sir, at Niagara Falls I expected Strobel with orders how we should go on.

You did not see Crampton afterwards?—No, sir.

Did you see any written instructions at Halifax?—I saw the proclamation. Mr. Wilkins showed me the proclamation for enlisting.

(Proclamation with British arms on it shown the witness, same as on page 47.) Is that the one?—Yes, sir, I saw that; Mr. Wilkins gave me one of them; he gave it to me in the Provincial Building to read it; he was Secretary of Nova Scotia.

What did he say it was for?—It was for the Foreign Legion.

Did he say that this was the placard under which they were acting?—He told me if I should be engaged I should go on to the States and raise troops, but that without this I could not be engaged—saying what Sir Gaspard said to me. I did not see Mr. Howe, he was not in Halifax at that time; I heard very often from him.

Have you at any time seen Mr. Hertz?—Not in this business.

Did he ever say anything to you about this business?—No, sir. When I came with Strobel, I heard from Halifax that we could not be engaged because we did not do anything in getting men.

What do you mean by that?—That we did not raise plenty of men and squandered all the money, as they said.

William Eckert sworn.

[This witness did not speak English and was interpreted by Mr. Oehlschlager. Examined by Mr. Van Dyke.]

Can you write? No, sir; I can read my name; I knew Mr. Hertz, I saw him at No. 68, South Third-street.

What did you go there for?—I went to enlist; I wanted to enlist in the British army.

Did you enlist?—I did not enlist; I went down with a good friend of mine, whom I requested to bring me down; he did not go down with me, but suggested to me another who went down with me. My friend spoke for me, and said, "Here is a man who wishes to enter the British army."

Who did he say that to?—Mr. Bosschart and Mr. Budd, one of the gentlemen, answered, We do not busy ourselves with it, we will merely send you to Halifax, and then if you wish to serve you can serve, and if you wish to work you can work—that the men were enlisted in Halifax. My friend asked how much bounty money in hand was received, and Mr. Budd told him he would receive as bounty 30 dollars, and 8 dollars a-month. Well, then I asked whether there was nothing paid in advance or immediately, for the few days I would have to remain here; they said they gave nothing; then I went away; they asked me what my name was; I did not write it, Mr. Bosschart wrote it.

Where did he write it?—On a sheet of paper.

Did you agree to go?—Yes, sir.

Did you get a ticket for your passage?—Yes, sir.

Who gave it you?—Mr. Hertz.

When was it he gave it to you, the day you sailed or before?—On Wednesday afternoon.

Did you engage to go with the intention of enlisting when you got there?

(Mr. Remak objected to the question as a leading one.)

Judge Kane.—The question is too directly indicative of its answer.

Mr. Van Dyke.—What was it your intention to do when you got to Halifax?—I wanted to go to the Crimea.

In the Foreign Legion?

(Mr. Remak objected.)

By Mr. Van Dyke.—In what capacity did you want to go to the Crimea?—As a soldier.

When Mr. Hertz gave you the ticket to go to New York, did he understand that it was your intention to enlist when you arrived at Halifax?—

(Mr. Remak objected.)

Did Mr. Hertz, at the time he gave you a ticket to go to New York, know that it was your intention to go to Halifax?

(Mr. Remak objected. The objection was overruled.)

Witness.—Mr. Hertz was not there the first day.

I refer to the time he gave you the ticket. At the time Mr. Hertz gave you the ticket to go to New York, did he know it was your intention to enlist when you arrived at Halifax?—Mr. Hertz was not there when my friend brought me to the office.

You have said that Mr. Hertz gave you a ticket to go to New York?—Yes, sir.

At the time Mr. Hertz gave you this ticket to go to New York, did he know it was your intention to enlist?—I do not know whether the other gentleman told me the reason why he wished me to go to New York.

Had you told Mr. Budd your intention?

(Mr. Remak objected. The objection was overruled.)

Witness.—He heard it.

On Monday?—Yes, sir.

(The counsel for the defence (Mr. Remak) in the course of the examination of this witness frequently interrupted and attempted to correct the interpreter in his interpretation of the language of the witness. On the conclusion of the examination, he called Mr. Oelschlager to the stand, for the purpose of questioning him as to his interpretation of the witness, but on after consideration waived the examination.)

Augustus Titus sworn. Examined by Mr. Van Dyke.

Do you know Mr. Hertz?—Yes, sir.

Which is the person?

Witness (pointing to Hertz).—That is the gentleman sitting there.

State what you know of this matter?—Well, I was here in the city without work, and I had no boarding-house to go to, as my landlady had told me to leave, so I read of this place in the “Ledger,” and went down and saw Mr. Budd there, and a couple of other gentlemen. I went in and asked them if this was the place where they enlisted them, and was told—

Who did you ask that?—The gentleman is not here, he was a stranger to me. Mr. Hertz was not there the first time.

How long was this before you sailed?—It was about 3 o'clock in the afternoon of day before. Then I was told that I could not see the agent now, that he was out, and to come in two hours after that time. I came in, and I saw Mr. Budd and he asked me my name, and I told him my name, and he wrote it down on a sheet of paper.

Judge Kane.—How came he to ask your name?—Well, I don't know, without he wanted to put it down.

Did you tell him what you wanted?—I asked him if this was the place where they enlisted, and he said no, it was not the place where they enlisted, but the place where they got men to take them to Halifax.

For what purpose?—For enlisting. I gave them my name. My intention was only to go to New York. I was going to New York, and there I was going to leave them.

Did you tell him that was your intention?—No, sir, I did not; I kept that to myself.

You were going to out-wit them then, I suppose?—Well, I was going to try to; I did not know whether I would succeed.

What did you tell them you intended to do?—I told them I intended to go out to Halifax for the purpose of enlisting.

When did you see Hertz?—On the morning we sailed I saw him. I went up to the office and asked him what boat I was to go on, and he said that he would be down and make arrangements. There was Mr. Hertz, Mr. Budd, Mr. Bosschart, and another gentleman standing talking together, and I went down to the boat and waited until Mr. Hertz came down. I cannot say whether

he came with Budd or not. I stopped down at the boat, and before we started Mr. Budd went round the wharf to see whether any one else was off the boat, and when he found there was none there he came on board, and just before we commenced to start he called us all up. He did not form us into a rank. Sometimes he came to us one by one, and sometimes two or three were collected together, and he would ask our names. We told him our names, and he marked a cross I think. I won't say it was a cross, it was a mark of his own on the paper. At that time we went down to the Navy Yard, when Marshal Wynkoop caught us. (Laughter.)

Did you get a ticket? Yes, sir, I got a ticket of Mr. Budd, at 68, South Third-street. Mr. Hertz was not there at the time. I can read.

(Ticket shown.) Is that the ticket? That is the colour of the card (green) I got. On the back was "Pine-street Wharf," and those are the letters ("N.S.R.C."). I have had them in my head from that day to this, and ever will remember them.

Judge Kane.—Perhaps you can tell us what those letters mean?—No, sir, I cannot. They stand for something I am not able tell.

You say you can read (paper shown). Is that the paper he marked your name on?—Well, I cannot say whether it was a whole sheet or half a sheet. He had it laying on a table.

Well, your name is on that sheet?—Yes, sir, my name is on there, No. 9.

Mr. Van Dyke.—Is there any cross-examination?

Mr. Cuyler.—There is a frankness about this witness that quite disarms cross-examination.

Charles Weaver sworn. Examined by Mr. Van Dyke.

Do you know Mr. Hertz?—Yes, sir.

Can you point him out here?—(Pointing to Hertz.) That is the gentleman.

Did you see him in March 1855?—Yes, sir, down in Third-street.

What did you go there for?—I went down because I heard from some of my friends that they were enlisting soldiers for the British army there; I went down, it was an hour before they started, and I asked him whether he enlisted men to go into the British army; he said no, I do not enlist, but if you want to be enlisted I will give you a ticket to New York, and from there the officer would give me a ticket to Halifax.

Did you tell him you would enlist in Halifax?—No, sir, I did not tell him that; I told him I wanted to enlist, and he gave me a ticket; he did not give me any money; he took my name.

Was it written in a book or on paper?—I suppose it was written on a sheet of paper; Mr. Hertz took my name, he wrote it.

Did you go on board the boat?—Yes, sir.

(Ticket shown.) Was it one of these tickets that you had?—Yes, sir; I had one of that kind; I went down to Pine-street Wharf; Mr. Hertz was there the day the boat sailed. I went down with a friend of mine to the boat; I saw this man, Mr. Bosschart, there, and he said, this is the boat that goes to New York. Mr. Budd was on the boat, he was in command; he took my name on board the boat, and called us together the same like an officer; there was twelve or thirteen men together, and he had command of them. That is what I saw; he took the names on the list, and as he took them he called us together, and told us to go on that side or this; he mustered us into rank.

Mr. Cuyler.—What do you understand by mustering into rank?—Well, we stood in a line, and he said, fall in.

Who told you that?—This young gentleman (pointing to Budd).

That is not Mr. Hertz?—No, sir.

Who is it?—Mr. Budd, that is the gentleman.

Patrick Conroy sworn. Examined by Mr. Van Dyke.

You have been examined before in this case?—Yes, sir, before the Commissioner.

State to the Court and jury what you know in this matter, and what you

have heard from either of these defendants, Hertz or Perkins.—I never saw Hertz but at the United States' Commissioner's office. I had the conversation about this matter with Mr. Perkins.

State when you had that conversation, and what it was.—Well, I was introduced to Mr. Perkins at the "Pennsylvanian" office. Is it necessary for me to state all of this matter?

Mr. Van Dyke.—If it relates to the issue now on trial, state all.

Witness.—I was introduced to Mr. Perkins at the "Pennsylvanian" office sometime last December, I suppose in that neighbourhood; and a few days afterwards I had a conversation with him at Mr. Mc Geoy's Hotel, in Walnut-street, in which he said there were things he might wish to talk to me about. I did not understand it at the time, and not knowing what he meant I did not say anything; the next time I met him was at the "Pennsylvanian" office again; he was about leaving it in the evening, and he was cursing and ready to kill all about the office, damning everybody in the office; I asked him what was the matter, and he took me by the arm and we walked down a little; he said that he had just been writing a letter to one of the Lords in England, who had charge of the Government there; that he had everything right with the "Pennsylvanian" newspaper here, so far as siding with the Government against Russia was concerned, and when the first thing he saw that morning, was an article directly against what he had written to England, and that the "Pennsylvanian" had deceived him! I passed it off carelessly, as I did not care what was going on between him and the "Pennsylvanian," or the British Government. I met him again some time afterwards in the Exchange Hotel, and he called me to one side and told me that it was necessary to raise a certain amount of men in this country for the purpose of raising a legion to go to the Crimea. I asked him how it was, and he said that such was the case. I asked him then whether there was any danger in enlisting men in this country for that purpose, for I had heard that there was, and he said no—that he had been down at Washington, and fixed all that. He said that Mr. Crampton sent for him, and when he went to Crampton, he sent him to Marcy, and when Marcy asked him all about it, he said he humbugged him about it, and told him he was only going to send the men to Halifax to dig a canal, that Mr. Marcy in reply remarked, that he was a pretty cunning fellow, and then it all passed over: it was all fixed, and there was no more danger at all about it. He then said to me that if I would choose to take a part in the matter, that he could guarantee me a commission in the Legion for a certain number of men, and for a less number he could guarantee a non-commission; that if I would take an interest in the matter he would fix things for me, but that it would take two or three months to do so; that I knew there were a great many men over the country who were suffering from bad times, and who could be enlisted, and that he would make it to my interest to do so. I told him I would think about it. The next time I saw him he was going directly from his office in Third-street; from the steps of his office he went down to Campbell's cellar in Third-street. He was there a minute or more, and then he came up and came over to me opposite the Exchange Hotel; he took me by the arm and pulled me to one side and asked me if I had done anything in that matter yet; I said no, I did not intend to do anything in the matter myself, but there were friends that might; he then said to me that he could not guarantee a commission in the regular army, but he could in the Foreign Legion, and if I had friends who would take such positions he would guarantee them the same, and if I saw any who wanted to enlist to send them over to the office, 68, South Third-street. I said I would do so, and he then remarked, I am now in a hurry, I am going down to the British Consul's; I have news from Washington, and I will see you when I come back. I had no more conversation with him on the subject, except that he told me he was an agent of the British Government, and had 300 or 400 men to look after in this country, and pay them. He told me that on the occasion when he had to see me in a hurry; he repeatedly told me that he was an agent of the British Government, and solicited my assistance in all these ways for the purpose of raising men for the Foreign Legion.

Did he tell you where the enlisting was done?—He did; he pointed over to the office No. 68, South Third-street.

Where was he at the time?—Standing on the steps of Durar's Exchange Hotel.

How long before the arrest of Hertz?—Some two or three weeks.

Are you in the Volunteer Corps?—Yes, sir, I hold the commission of Colonel.

Did he ask you anything about the commission you had?—Yes, sir, he asked me what commission I held, and I told him Colonel of the Second Regiment of Pennsylvania Volunteers, and he said he could guarantee me a captaincy if I would go, and he knew from my position here that I could be of use to them, and he would make it of use to me. I have now stated pretty near the whole substance of the conversations; we had a great many other conversations, but there was nothing stronger in them.

Did he tell you at any time, or do you know, that he actually engaged any person to go to Halifax for the purpose of enlisting, and if so, what person?—I do not, sir; I know he tried to engage me.

Did he not engage you?—No, sir; I refused him, and he tried to get me to solicit others to do so.

By Mr. Gillou.—He said that you could be useful to him in that line of business?—Yes, sir.

You are in business in this city?—Yes, sir.

Edward W. Power sworn. Examined by Mr. Van Dyke.

Are you a military man?—I belong to a military company, and hold a commission.

Do you know anything about Hertz?—I do; I was at his office in South Third-street about the 20th or 21st of March, or thereabouts; I went to 68, South Third-street, and went up stairs into a back room, and there I found some five or six men sitting around the table. I spoke first to this gentleman here, I think, Mr. Leob; I asked him whether that was the place in which they enlist men for the Crimea: he said that this gentleman, pointing to Mr. Hertz, was the person. I then turned to him and asked him what were the inducements offered to those men who had served in Mexico during the war. He said that any man who could come with a company, and capable of commanding them, would be entitled to a commission in the English army; that this Legion was for the purpose of going to the Crimea. He asked me if I was connected with anything here; I told him that I was, that I then held a commission, and he asked me then what number of men there were; well, I said, we numbered from sixty to sixty-four, but that there was not more than thirty equipped. He then seemed anxious that I should call again; I left him with the promise that I would call again; I did so, in company with Peter Somers, who was formerly First Lieutenant of the Continental Guards. I went there and introduced Mr. Somers under a fictitious name; I did that for the purpose of ascertaining how they sent the men away, so as to have him ascertain that fact. We had a conversation for the second time, with Mr. Hertz, and Somers laughed, and I thought the joke was being carried too far, and I kind of smiled, and then I saw the whole thing was settled and we retired. On the 27th, the night before the arrest, a man by the name of Renners, I think, came to the armoury while I was drilling the company.

Was Mr. Hertz there?—No, sir.

Do you know whether Perkins had anything to do with that office?—Yes, sir; the second time that I went there, that was on Saturday, Mr. Perkins was sitting in the front room.

When you land at the top of the staircase going up, you go into the back room of that office first, do you not?—Yes, sir; and that makes the front-room the back-room; there were two folding-doors between the two rooms, and they were partly open; the room fronting on Third-street was used as the back or private office, and the back room as the front office. There was a tall man there from whose appearance and manner I suppose he was an English officer, or one engaged in the English service. Perkins was sitting on a chair leaning back, and as he saw me he drew his head back.

Do you know, from any conversation you had with Perkins, or are you aware, that Perkins has ever engaged any individual to go to Halifax to enlist?—Well, I would not, may it please the Court, like to answer that question, because it would to a certain extent, criminate me, so far as the law of the State is concerned.

Mr. Van Dyke.—I did not ask you anything regarding yourself with Perkins. Do you know whether he has engaged, hired, or retained, or made a bargain with any other individual?—I know that he left me one evening to go to New York, for the purpose of attending to some business for Mr. Crampton.

You do not exactly comprehend my question. Do you know whether he ever said to any individual, "I want you to go," or did he engage any individual to go to Halifax?—No, sir.

Do you know what he was doing in the front office when you saw him there?—No, sir.

What was your conversation at that time?—Mr. Hertz and I were speaking together about this company.

Was that the only time you saw him there?—I saw him afterwards come out; I went there with a number of persons, who waited on the outside to hear what was to be said, as they were determined that the thing should be broken up, and as we stood on the other side, Mr. Perkins came out and went down into Campbell's cellar, and then he came out and over to the other side, and spoke to Conroy and some others with him; my introduction to Perkins was that he came with a note to me as the second of a gentleman who had challenged a friend of mine to fight a duel.

He told you he was going to New York, to see Crampton?—Yes, sir, he said he had business with him; he told me that in Brown's Drug Store.

Did he tell you what business?—No, sir; he told me that he had a great deal of business to do now; that he was connected with the railroad, and had to see his friend Mr. Crampton in New York.

Hugh Casey sworn. Examined by Mr. Van Dyke.

Do you know Mr. Hertz?—Yes, sir.

(Pointing to Hertz) Is that the gentleman?—That is the gentleman.

Do you know Mr. Budd?—Yes, sir; (pointing to Budd) that's him.

Did you go to the office, No. 68, South Third-street?—Yes, sir, I went there, and Mr. Hertz and I had a conversation. I saw in the "Ledger" that they were enlisting for the Foreign Legion there, and I went down and saw Mr. Hertz, and he told me to come back and he would give me a ticket. I went there on Friday, and he gave me a ticket to sail on board the boat with, and twelve and a-half cents, and told me that the boat would sail on Sunday, the 25th; I went back on Saturday with three other men who enlisted with me, and he gave me a quarter of a dollar. On Saturday afternoon I went back again and he gave me nine cents, and on Sunday I went down to the boat and she had sailed. I went to the office on Monday and Mr. Hertz was not there, but Mr. Budd was there, and he told me come back on Wednesday, and he would give me a ticket. On Wednesday I went down.

What did you do with the ticket you got on the first occasion?—I gave that ticket up. I guess you have it now. On Wednesday I went down there, and met Budd at the steam-boat with Mr. Hertz. Mr. Hertz saw me and told me to go on board. I went on board the steam-boat, and there I saw the rest of the men had tickets in their hands, and I had none; and then I went up to the office thinking that Hertz was there to get a ticket, and when I came back the boat had sailed.

Did Hertz give you the first ticket?—No, sir, Mr. Budd gave me the ticket himself for Sunday; I do not recollect getting it on Saturday; the 31st of March I saw Mr. Hertz.

When you got back from the office you say the boat had sailed?—Yes, sir; I went up to the office in Third-street, and when I came back the boat had sailed; it was the "Menemon Sanford;" I then came back and I saw Mr. Hertz on Saturday, in Mr. Heazlitt's (I think that is his name) office; he was looking for bail, and I went over to him, and Hertz said to me, "Who is going your bail?" and I said, "I do not want any bail, because I come out of the boat to get a passenger ticket, and did not go;" and he then said, "Do you want a little money?" and told me to stop around by-and-bye, and he would give me some money; I went around at 4 o'clock. Mr. Remak and him went up to Seventh and Chestnut-streets, and I waited in the room until he came back, when he gave me twenty-five cents, and said to me, "You will go and swear against me, and be damned to you."

Did you tell him what you wanted to go to Halifax for?—I said times were very hard, and I would like to go to Halifax for the purpose of enlisting in the Foreign Legion for the Crimea, and then he said that he would give me tickets to go there, and that I would get thirty dollars bounty, and eight dollars a-month, but that he could give me no money until I went on to Halifax.

Cross-examined by Mr. Remak.

Did you not tell some people that you were going to see Mr. Van Dyke, and get him to send you to prison for the purpose of your support?—I did not, sir, use that expression; I told a person that I met on the street that I was fooled by the party, and that Mr. Hertz insulted me, and I would go as State's evidence against him.

Philip Label sworn.

(As this witness could not speak the English language, Mr. Davis was, at the request of Mr. Remak, affirmed as his interpreter.)

Examined by Mr. Van Dyke.

Do you know Mr. Hertz?—Yes, sir; (pointing to Hertz) that is the gentleman sitting there.

State all you know about the enlisting.—I read in the "Democrat" that some persons were required to go to Halifax, and I went to the office, No. 68, South Third-street, and made some inquiries there if that was the place for enlisting; I made the inquiries of Mr. Bosschart. I then inquired if they engaged some people there; they told me that they desired to engage some persons to go to Halifax in order to work there; I then asked him if I could become a soldier if I went there; he made the reply that it was left optional to me to do so or not, that those who are willing to become soldiers may do so, and those who wished to work may do so too.

Did you say whether you were willing to become a soldier, and that you wanted to become such?—No, sir, I did not intend to go there as a soldier; I made the inquiry, if, when a person got there, he enlisted, what he received; I was then told there was thirty dollars bounty, and eight dollars a-month.

Who told you that?—The same man, Mr. Bosschart.

What conversation, if any, took place between you and Hertz?—The first day that I came there I saw this gentleman there, I then inquired what time the vessel would go; he told me that he did not know, that Mr. Hertz was not in and he could not tell me; I went there again on the following day and saw Mr. Hertz, and he handed me a card.

(Ticket shown, same as on page 63.) Was it a card like that?—Yes, sir.

Did you sign any paper?—No, sir, I did not; that gentleman put my name down on some paper; Mr. Bosschart did so.

Did you go to the vessel?—Yes, sir; Mr. Hertz told me where the vessel was, and I went towards it, that is all; I went on board, and that is all.

Did you go to Halifax?—No, sir.

Why not?—Because we were arrested before then.

Who had command of you on the boat?—Mr. Budd.

James Johnson sworn. Examined by Mr. Van Dyke.

Witness.—Matthew Burk is my proper name; you will see it so on Mr. Hertz's list.

How came you to get the name of James Johnson?—I did not wish my name to be published in the papers so that my friends would know it; I gave my proper name to the Court at the time.

Why did you not want your real name known?—I did not want my friends to know that I was made a prisoner.

Did you not give that name under oath?—No, sir, I did not; I told the Commissioner, and the Grand Jury, and you, my proper name, and the circumstances of it.

Do you know Mr. Hertz?—Yes, sir.

When did you see him?—I saw him on the 27th of March.

Did you see him before that?—No, sir.

Were you on the boat?—Yes, sir—in the steamer “Menemon Sanford,” on the River Delaware.

Had you seen Mr. Hertz before that?—I saw him the day before, at 68, South Third-street. We were taken on a Wednesday.

How came you to go to his office?—I called first on Monday. I saw the advertisement in the “Ledger” of men wanting. I did not read it myself, but another man read it for me, and I went to see. Mr. Budd was there. I told him I had called from seeing the advertisement of soldiers wanted, and I said that I wanted to enlist. Mr. Budd told me that I could not be enlisted there, but that he could tell me how I could get to Halifax, and said that I supposed that would do to get to Halifax; he then told me I must come once again. I called again that afternoon, which was Monday afternoon, and he told me that a boat had gone before, and it was a pity I had not been sooner. I called again on Tuesday, and Mr. Hertz was there. I told Hertz my business, that I had come to enlist, and the reply he made I cannot tell now, but it was “Very well,” or something to that effect. He told me to stay awhile, and I stayed awhile, and some more men came. I told him my name, and he wrote it down on a sheet of paper; he also wrote some others. I told him, when he was going to write it, that another man had written it the day before, and he said, “Very well, I will take it again.”

(Paper shown.) Is that the paper on which your name was written?—That is my name on it, though I cannot say whether it is the paper on which Mr. Budd wrote my name the first day. I called on Hertz the day after. He did not tell me what bounty I would receive; I did not inquire. He gave a ticket, and I was to go down to the boat.

(The “N. S. R. C.” ticket shown.) Was it a ticket like that?—I actually believe it was one of them green tickets; I think so, but would not swear positively that it was a green ticket, though I actually do believe it was one. I recollect it having those letters (“N. S. C. R.”) on it.

What did he tell you to do with the ticket?—He told me I was to go down and go on board at Pine-street Wharf. I then went away, and called back again to the office, and I asked him, “Was I to go on board, and say nothing to no one, or was there to be anybody there to receive me?” He told me to go down between 9 and 10, and go straight on board, and to tell the rest, if I saw them, to go on at the same time. I went next morning, and did so, and went on board the boat, and and was taken about to the Navy Yard, when they brought us back again.

What took place when you got on board the boat?—I saw Mr. Budd on board the boat, and we were called together, and an exchange of tickets took place. We were going on, and I thought in a fair way for Canada, and the next news that I heard was that we were all made prisoners.

Did Mr. Budd call you together?—Yes, sir; he was there acting as a kind of officer or man in authority. He did not put us in military form, but called us together.

Cross-examination by Mr. Remak.

How much money have you received from the United States as witness fees?

Mr. Van Dyke objected. You need not answer that question.

Mr. Remak.—I only wanted the jury to know; you need not mind.

Peter Muhn sworn. Examined by Mr. Van Dyke.

Do you know Mr. Hertz?—Yes, sir; I have known him since the 26th of March. I first saw him in the office, No. 68, South Third-street.

How came you to go there?—There was a man told me that there was an office to send men to Halifax to work. I was out of work and went there. That was on Monday afternoon, and I found nobody there but Mr. Budd, and that young man there, Mr. Bosschart. He told me to come next day, when Mr. Hertz would be home, and then I could know all about it. I went there the next day, and he said, “Yes, he sent men to Halifax to work.”

What kind of work?—Any work that you pleased; and if I did not like it

there, I could get a free ticket back here again, and that, if I wanted to go in the army, I would get 30 dollars bounty and 8 dollars a-month. He told me to come in again about 2 o'clock, and he would tell me all about it. I went in about 2 o'clock, and he said that Budd was going off next day at 10 o'clock, and he gave me a ticket.

What coloured ticket was it—red, yellow, blue, or green?—I do not recollect: one of the green, I guess. (Ticket shown.) That is like it. Pine-street Wharf was on the back of it.

You went to Pine-street Wharf?—Yes, sir; and I went on the boat.

Who did you meet there?—I met Mr. Budd; he was there, and he took command of us.

Did you ever see Hertz down there?—No, sir.

You were arrested that day, were you not?—Yes, sir.

John Jenkins sworn. Examined by Mr. Van Dyke.

You are Deputy Marshal?—Yes, sir.

Will you state whether you had a warrant in the latter end of March, for the arrest of certain parties, and whom?—The Marshal had a warrant for the arrest of Hertz and others, and I accompanied him.

State what you did then.—The Marshal directed me to go on board the steamer "Sanford," and arrest the party that were there. I arrested Mr. Budd, together with some twelve or fifteen men, whose names I do not remember. The Marshal himself afterwards went to the office of Mr. Hertz, and there arrested Mr. Hertz, Mr. Bosschart, and two others—four in all, I think.

Mr. Hertz was among them?—Yes, sir.

You arrested these men?—Yes, sir.

("N. S. R. C." tickets shown.) Do you know these tickets?—Each of the men had tickets similar to those upon their person. I took them from them.

(New York steamer ticket shown.) Do you recollect that?—I do not recollect that.

(Book of Doctor containing cash account shown.) Do you remember that book?—No, sir, I do not.

(Book containing list of names shown.) Do you remember that book?—Yes, sir, I remember that book. I found it in the secretary which Mr. Hertz called his private secretary, in the Enlisting Office. He gave me the key, and I opened it.

(Receipt shown.) Did you find that there?—Yes, sir.

The receipt was read in evidence, as follows:

"Philadelphia, March 25, 1855.

"Received of Mr. Hertz, 84 dollars, for passengers to Halifax.

(Signed) *"A. WINSOR."*

Did you find this receipt of the "Ledger" for advertising one and two-thirds squares half month, 9 dols. 50 c., dated March 16, 1855, at the office, No. 63, South Third-street?—Yes, sir, it was in the secretary; I recollect it.

Did you find the receipt of the "Pennsylvanian" there?—Yes, sir. (This receipt will be found on page 67.)

Mr. Remak.—Is Mr. Hertz's name in that receipt?

Mr. Van Dyke.—No, sir, it is not.

(N. S. R. C. ticket shown.) Did you find any number of these tickets there?—Yes, sir; they were similar to these.

What did you do with them?—I gave them to you.

Do you recollect whether you arrested Michael Gilroy as part of that company?—Yes, sir.

On the boat?—Yes, sir.

Hugh Casey?—Yes, sir.

James Johnson?—I do not remember the name.

Charles Weaver?—I do not remember the name.

Peter Muhn?—I do not remember that.

Philip Label?—No, sir.

Augustus Titus?—I remember that.

Bremen Kernsten?—I do not remember that.

William Finley?—No, sir.

You remember Titus, you say?—Yes, sir, I believe they all were the parties on the boat, but I do not remember the names at this time, nor did I hear the names at that time; I remember Gilroy, Titus, and Casey.

(Paper shown.) Do you remember that paper?—Yes, sir, I got that in his office; it was on the file.

The paper was read in evidence, as follows :

“ *Philadelphia, 26th of 3rd month, 1856.*

“This is to certify that Mr. Julinas Lyncks is in sound health, and fit for any service.

(Signed) “ *BEIL, Doctor.*”

(Papers shown witness.) Do you remember those?—Yes, sir, these were in the secretary.

Mr. Van Dyke.—The one is the paper which Mr. Budd stated contained the names of the persons he took, and the other appears to be a copy of the recruiting book,

Examined by Mr. Remak.

Did Mr. Hertz, on the day of his arrest, give you the key of his office and the key of his desk of his own accord, freely?—I demanded them.

Did he give them without any hesitation?—I demanded them through you, and after consultation with him you directed Hertz to give them to me.

Did he give them of his own accord, or did I ask him?—I think that it was after you directed him to do it. I do not think I had any conversation with Mr. Hertz about the keys; it was with you.

I think in your examination before the Commissioner, you said that at the time Hertz gave you the keys, and I had no objections.

By Mr. Guillou.—You mentioned that you arrested a number of persons on the boat, and you also said that you arrested at the office Hertz and some others, which you did not mention. You did not arrest Mr. Perkins there?—No, sir, the Marshal arrested Perkins. He was not at Mr. Hertz's office, or upon the boat. I do not know where he was when he was arrested.

Edward G. Webb affirmed. Examined by Mr. Van Dyke.

Are you acquainted with Mr. Perkins?—I am.

Have you ever had any conversation with him previous to the 28th of March, in relation to recruiting for the British service?—Yes, sir; I cannot speak as to the date, but during the time the enlistment was going on in Third-street, opposite Dock, I met Mr. Perkins in Dock-street—I think at the corner of Third and Dock—and we walked down as far as Walnut and Dock-streets, and there stopped; a conversation arose between us as to the enlistment going on, or said to be going on, in one of those buildings in Third-street; he stated he was hiring men at 1 doll. 25 c. a-day, and sending them to Canada and Nova Scotia, or some other place in the British Provinces; I asked him for what purpose, whether they were to go in the Foreign Legion to serve in the Crimea; he said he employed them nominally for the purpose—I do not know whether I use his language, but I give the idea—of working upon a railroad; I remarked to him that I thought they would find their way into the barracks, and he said he had no doubt of that, or he supposed so, or something of that sort.

Did he state to you at any time whether he was doing this at the suggestion or by the advice of any higher authorities than himself?—He did; he told me he had not been long from Washington, and that he had had an interview with Crampton, the British Minister, while there, in relation to this subject, and that he had been called to Washington in consequence of some disclosures made in Philadelphia or other places, about the matter. I understood him to say that he or Crampton waited upon Mr. Marey, or that Crampton told him that he had

seen Mr. Marcy and had entered into an explanation about the course they had pursued in Philadelphia, and that after he had explained, Mr. Marcy either clapped him upon the shoulder—Perkins or Crampton, I do not now distinctly recollect which—and said, “You are a cunning dog, you have not violated any law of this country.”

Did he tell you what he was doing?—He said he had employed a large number of men; he mentioned the number, but it has escaped my memory; that he employed them at 1 doll. 25 c. a-day, to go into the British Provinces, nominally to work upon the railroad, but really to go into the army.

Mr. Guillou.—Did he say that?—That is not his precise language, but that is the idea; it is impossible for me to recollect his language.

Give the substance of it.—As near as I recollect, he said that he employed a large number of men, and had dispatched, I think he said 500, already, nominally to work upon the railroad in one of the provinces, but he expected that they would find their way to the barracks. I asked him whether he did not employ them for that purpose. Well, he said, he did not care a damn where they went after they got there; that his purpose was to get them there, and then they might take care of themselves.

Did he say that the British authorities would take care of them after they got there?—I cannot say with accuracy whether he did or not. He talked very fast; he was in a talking mood, and said a good deal. I saw, from his flushed face, that he was in a talkative way.

Did he at any time try to get you to write editorials in your paper on this British question?—He did. He was in the habit of coming into the “*Pennsylvanian*” office nightly and daily long before I knew who he was. After he had been coming there several weeks, he ventured into the editorial department, and conversed with the telegraphic reporter, Mr. Johnson; he entered into conversation nightly with me upon the subject of the war in the Crimea, and contended that the democratic party ought to take ground in favour of the allies; that, in fact, the United States, as a general thing, should do so, because she was the daughter of Great Britain; our people spoke the same language, and were educated in the same literature, and so on. He frequently grew warm upon the subject, and I listened to him; and repeatedly, while he was talking upon that subject, I was writing an article against the allies, and combatting his argument as he was progressing.

Which is Mr. Perkins?—I know him very well, I have seen him almost every day; but I do not see him now in the room.

Mr. Guillou.—There is no difficulty about that.

Witness.—He always said that he was an agent of the British Government, and that he was in correspondence with Lord Palmerston, and, I think, Lord Clarendon. He gave me to understand that he was a Tory, and that the Tory party in England was the only party that knew anything (laughter); that they were always able to carry on the Government properly, and that the Whig party was composed of dunces (laughter), who always got into difficulties, and were the bitter enemies of this country. He said that he was a correspondent to several newspapers, and mentioned particularly the “*Times*,” and stated that he had, with every mail, sent a file of the “*Pennsylvanian*” to Europe, to the “*Times*.” He also spoke of Lord Brougham, and said that he was in correspondence with him.

Did he say the correspondence was on this subject?—No, sir, I do not think he did.

Did he mention the subject?—He was talking about this subject at the time he said this. He complained about the tone of the articles in the “*Pennsylvanian*,” and showed a good deal of feeling. He said that he had written to his employers in Europe, and had assured them that the democratic press in this country was all right, which I believe did not happen to be the case (laughter), and that they would think it very strange that he should give them such information, when they found the tenour of the articles against the allies so ultra, and so strongly in favour of Russia.

Judge Kane.—Did he classify Brougham among the Whigs or the Tories?

Witness.—I do not remember whether he classified him or not; he said he corresponded with him.

Mr. Guillou.—May it please your Honour, he was like the man in the play, “he received letters from Constantinople.” (Laughter.)

Did he speak of this as confidential?—Yes, sir, he did, and remarked, on several occasions, that what he told me was contained in some letters which he had just received, but could not show the letters to me. (Laughter.)

Judge Kane.—Were there any relations between you and him, which would have suggested the propriety of his telling you this?—No, sir; he is excessively talkative, but is a man of large information, obtained by travel, and is a man of education. He spoke of his being Lieutenant in the British army in India, and was promoted to a Captaincy by the brevet; that he had been there, and was in Hindoostan, and in that terrible fight in the mountains of Afghanistan, where the British army was literally destroyed. He also spoke of his wounds, but never showed them. (Laughter.) He also spoke of his having been directed to superintend the embarkation of troops to some part of Africa or Hindoostan.

By Mr. Van Dyke.—You are the editor of the “Pennsylvanian?”—I am.

And that is what induced this conversation with you?—Yes, sir.

You were at the time editor?—Yes, sir.

Judge Kane.—And your press was, at the time, unfriendly to his projects?—It has been during the year and a-half that I have been editor, and was so, I think, before. I did not like the threatening remarks towards the United States of some of the gentlemen high in power in England and France, and I thought we had better take care of ourselves, and put our house in order; and, therefore, I wanted the allies soundly drubbed.

By Mr. Van Dyke.—I believe you have stated, in substance, everything?—As far as I recollect.

Did he at any time say he engaged or retained any person to go to Halifax, with the intention of being enlisted after he got there?—Well, he spoke in general terms, and left the impression upon my mind that he had employed those men for that purpose, and had some understanding with them that, after they got there, they were to go into the barracks. He may have mentioned them by name, but I have no recollection of it; he left the impression on my mind that they were employed for that purpose.

Have you stated fully the conversation which he repeated to you as having had with Crampton upon that subject?—I cannot recollect it; he talked a good deal upon that subject, and endeavoured to impress me with the idea that he was a very great man, and knew the secrets of the British Cabinet.

You were never at this recruiting office, No. 68, South Third-street?—I passed it by daily, and saw something was going on, but did not know what. I saw several persons going in and out, and saw him repeatedly come out, which led me to suspect that he was a party in the matter.

Cross-examined by Mr. Guillon.

I do not think you understand a question of the Judge. He asked you whether the opinion expressed in the “Pennsylvanian” was adverse to the project of the defendant; and, as I understand you, you answered that it was adverse to the war in Europe.—It has been against this project of enlisting, and it has been very severe. It was the first that denounced it and exposed it.

State whether Perkins is not a man who talks a great deal.—Yes, sir, he talks incessantly. He is a man of large information, obtained by travel, and is a man of education, but not much judgment.

His temper rises pretty high sometimes?—Very.

Mr. Conroy mentions an instance when he left your office, cursing all in the office?—He was frequently excited about the subject, and I would then draw him out to the length of his tether.

And you were writing articles, firing away at the allies, and loading your guns with the ammunition he furnished you?

Mr. Van Dyke.—May it please the Court, having, as I think, proved a clear *prima facie* case against one of the defendants (Hertz), and submitted all the testimony I have to offer against the other (Perkins), I deem it unnecessary to extend the examination of the witnesses relative to Mr. Hertz. I therefore close for the present the case of the Government.

[The Court then took a recess for half an hour.]

The District Attorney having closed his case, the counsel for the defence said they had no testimony to offer.

Mr. Guillon, for Mr. Perkins, asked the Court to instruct the jury to return

a verdict of not guilty as to Emanuel C. Perkins, there being no evidence to hold him.

Mr. Van Dyke.—Is it the intention to make a witness of the defendant?

Mr. Guillou.—No!

Mr. Van Dyke.—This application is entirely within the discretion of the Court, and, I presume, might be granted, if the ends of substantial justice were to be served by so doing, but as Mr. Perkins is not to be put upon the stand, nothing is gained to either of the defendants by separate verdicts. I am free to admit, that under the former ruling of the Court I have not made out such a clear case against the defendant Perkins as I should have liked, but I prefer the going jointly to the jury as they now stand. The result, no doubt, will be the same to Mr. Guillou's client.

Mr. Guillou.—Under the remarks of the District Attorney, I withdraw my application.

Mr. Van Dyke in summing up for the United States said: He did not deem it necessary further to examine the witnesses which could be produced. That he was satisfied the testimony which had already been submitted was conclusive in favour of the Government, on all the questions which had been submitted to the jury. He had but very few suggestions to make at the present time, and such he should address to the jury, more through the medium of the Court than directly to themselves, because it was his belief that under the charge which the Court would give of the law bearing upon the case, the jury would have no difficulty in finding the defendant Hertz guilty, in the manner and form as charged in each and every of the bills of indictment laid before them.

The Act of Congress, may it please the Court, provides (I recite it from memory and the Court will correct me if I am wrong): First. That if any person shall, within the territory or jurisdiction of the United States, enter himself in the service of any foreign prince, &c. This is one distinct and separate misdemeanour created by the Act.

Second. If any person shall hire or retain any other person to enlist or enter himself in the service of any foreign Prince, &c. This is another and the second distinct misdemeanour created by this Act.

Third. If any person shall hire or retain any other person to go beyond the limits or jurisdiction of the United States, with the intent to enlist or enter himself in the service of any foreign prince, state, colony, district, or people, as a soldier—not as a soldier on board any vessel or letter of marque, as has been contended, but as a soldier according to the general common acceptance of the term—or as a mariner on board any vessel or letter of marque, &c.

Now these three are distinct and separate offences. The first is that of a person enlisting or entering into the service of any foreign prince, state, colony, district, &c. In relation to this, he said, the defendant is not in any manner charged in the indictment, and, therefore, it is unnecessary to embarrass the Court and jury in taking into consideration any facts which relate to an intent on the part of the defendant to enter and enlist himself. Neither has the defendant, nor any other person, been charged with having absolutely enlisted within the territory or jurisdiction of the United States; nor is the defendant, or any one else, charged with having gone beyond the limits or jurisdiction of the United States with the intent to enlist.

What, then, is the charge? What the only issue upon which I ask this Court to charge the jury that the Government have made a clear case? It is, first, that the defendant hired and retained some persons to enlist within the limits or jurisdiction of the United States. This crime is charged in two ways, in the first two counts in the indictment. And secondly, that the defendant has within the jurisdiction of the United States hired and retained certain persons to go beyond the limits and jurisdiction of the United States, with the intent to enlist when they arrived beyond such limits and jurisdiction. This crime is charged in various forms in the four remaining counts of the indictment.

It is no offence under the statute, in Muhn or Budd, or any one else, to be hired. So that those recruits who have voluntarily come upon the stand, and confessed their participation in this lawless transaction, have confessed no crime. If A hires B to go beyond the limits of the United States, with the intent mentioned in the Act, B having agreed with A within the limits of the United States to depart with the intent to enlist, the crime or offence is not committed

by B because he merely engaged with A to go, but the offence is committed alone by A, who hired him, for so far as the going beyond the limits of the United States with the intent to enlist is mentioned in the Act; the offence consists in hiring or engaging the person to go, and not in the being hired or engaged to go. And the Court is asked so to charge the jury. Then, as to the intent, what is meant thereby? and who must have such intent? On this point the Court is asked to charge the jury, that the intent mentioned in the Act is the motive in the mind of the person hired, and has no reference to the design of the person hiring, except that the person hiring believed, or had reason to suppose, the person hired really intended to enlist when he should arrive beyond the limits of the United States, and that he hired him for such purpose. That if the jury, from all the testimony, are satisfied that Hertz, at the time he engaged Muhn, Budd, Weaver, or any other person mentioned in any of these bills of indictment, to go beyond the limits of the United States, and furnished him the facilities to depart, had the intention to enlist in the British military service, then that point of the Act which speaks of the intent is sufficiently established.

Believing that the learned Court will give the jury in charge the law as he has stated it, Mr. Van Dyke called the attention of the jury to the principal features of the evidence in the case. He contended that he had established every point made in his opening remarks.

First. He had shown, by incontrovertible testimony, that the necessities of the British Government, resulting from the disastrous condition of their army in the Crimea, and the unpopularity of the cause of the allies at home, compelled them to hazard the enlistment of soldiers within the limits of foreign neutral nations.

Secondly. That in the accomplishment of this design, the English authorities at home, and their representatives on this continent, had, in gross violation of the laws of the United States, concocted and partially matured a plan for procuring, within our territorial limits, sufficient men to supply the forlorn hopes of an unpopular war, and regain the lost prestige of a waning Administration.

In support of these points, Mr. Van Dyke adverted to, and commented upon, the testimony of Captain Max F. O. Strobel, Colonel Burgthall, Colonel Rumberg, Dr. Reuss, Mr. Bucknell, Mr. Budd. The truth of their representations had not been questioned, and the jury are bound, under their oaths, to regard their evidence as conclusive.

Thirdly. That Henry Hertz, the defendant, was an agent of the English Government in the accomplishment of this general plan and design. That he had been employed for that purpose by Mr. Crampton, Her Britannic Majesty's Envoy Extraordinary, the highest British functionary known in this country, as also by Sir Joseph Howe, the general agent, specially sent to America for this purpose, and by Sir Gaspard le Marchant, the Governor of a neighbouring British province.

Fourthly. That in pursuance of such employment this plan was regularly carried out by the defendant. That he did, in the city of Philadelphia, engage at least 200 men to go beyond the limits of the United States, with the intent to become a part and parcel of the British Foreign Legion. That in order the more effectually to accomplish this design, he opened, under the auspices of his English employers, a recruiting office, and advertised in the public papers, and posted through the streets placards bearing the Queen's arms, inviting men to his office. That the persons calling in answer to such proclamations were sent by the defendant to Halifax, who, when there, were attested, and mustered into the military service of the British Government.

Fifthly. That Mr. Hertz at the time he was thus engaged in hiring and sending men beyond the limits of the United States, well knew that it was the intention of the persons thus hired and sent, to enlist in the service of Her Majesty the Queen of Great Britain.

Mr. Van Dyke argued that the affirmative of each of these propositions was fully sustained by the testimony produced by the Government, and called the attention of the jury to that portion of the evidence which severally related to them. He said the character of the witnesses was unimpeached, and that their testimony had been abundantly corroborated by the written evidence which he had been enabled to produce. That there could be no difficulty in finding a verdict of guilty as to the defendant Hertz. That if the jury believed both defendants guilty, they should so find. If, on the contrary, they did not think

a case had been made out against Perkins, they should acquit him and find a verdict of guilty against Hertz. They could separate their verdict.

As to Mr. Perkins, Mr. Van Dyke said that he did not intend to press for a conviction where the evidence does not in the clearest manner justify him in so doing. That however much he might himself be convinced of a defendant's guilt, it was his duty to prove him so, and that beyond reasonable doubt. From the intimation of the learned Court when this case was before it on writ of *habeas corpus*, he presumed his Honour would require the Government, under the present form of indictment for a statutory offence, to prove an actual hiring or retaining of some one of the individuals mentioned in the bills. Should such be held to be the law under this statute, he was compelled in candour to say to the jury that he had himself, under the testimony, a doubt as to Perkins having been proved guilty. He regretted such was the case, but having brought all the evidence he could to bear against him, he left him in the hands of the jury without any expression of his private opinion as to the defendant's guilt.

Mr. Van Dyke closed his remarks by a severe commentary upon the baseness and perfidy of the persons engaged as the chief actors in this flagrant attempt to violate and evade the laws and treaty obligations of the United States, and expressed the hope that the result of this case would vindicate the action of the Government in their determination to maintain our national integrity with every nation of the globe, whether it is or is not in accordance with sinister purposes of Great Britain. By forcing this indictment thus against this defendant, the President of the United States has struck as near the Throne of Her Majesty as he is enabled to do in the shape of a criminal prosecution. The extended privileges and peculiar protection given to a foreign Minister prevents, so far as he is concerned, the application of the criminal code of the country, although such foreign Minister may be proved guilty of acts which, if committed by a private individual, would make him a felon.

Were it not so, I think I am justified in saying, I would this day, by the direction of the President, be trying Mr. Crampton, Sir Joseph Howe, and Sir Gaspard le Marchant, instead of their humble instrument, whose conviction is now asked at your hands. The jury, however, will leave these gentlemen to the only power legally authorized to take care of our public safety, by demanding reparation from their Government; and you, gentlemen, may rest assured that in due time they will be called upon by our able and faithful officers at Washington to make proper atonement for the gross insult which they have offered to our laws and our people.

If, on the contrary, after I have in this trial, instituted by the direction and with the cordial approbation of the National Administration, proved the defendant so clearly guilty, as the instrument and agent of Mr. Crampton and his confederates, you should, on account of any sympathy which may be thrown into the jury box, acquit him; your verdict will be the strongest argument which will hereafter be used to protect Her Majesty's agents in their impudent intermeddling with the affairs of this continent. Confident, however, that you are men devoted to the institutions and political policy of your own country, and as such are ever ready fearlessly to defend them, I leave in your hands the honour of the Government, and the rights of all those who seek shelter beneath its broad protecting ægis. Weaken not that power of protection by your verdict; stain not that honour by one moment's hesitation, in your approval of the determination on the part of the Government, to preserve every feature of our constitutional vigour, as well from the jealous designs of foreign Powers as from the fanatical treason of domestic foes.

Mr. Van Dyke having concluded, he was followed by Mr. Stephen S. Remak, who made a powerful appeal to the jury in behalf of the defendant Hertz. He spoke for two hours and a half, giving a full history of the case, reviewing the testimony which had been submitted, and dwelling with great power and eloquence upon the law bearing on the subject. It would have afforded us great pleasure to be able to present his speech in full as taken by our reporter, but want of space forbids.

Mr. Cuyler.—May it please the Court, gentlemen of the jury: You are weary, gentlemen, and long to be released. I shall detain you but a few minutes by the remarks it is my duty to make to you in this case.

The facts of the case have been elaborately analysed and discussed by my

colleague, and I deem it unnecessary to pursue the path in which he has preceded me—in reviewing and digesting the testimony you have listened to so patiently in this case. The duty which has fallen to my share, may it please your Honour, is chiefly that of inviting your attention to the view entertained by the defence of the true construction of the Act of Congress, under which this indictment is framed; trusting if you shall agree with us in that construction, that the Jury will not find in the evidence in this case, that a violation of the wholesome provisions of this Act of Congress has taken place.

You cannot have not failed to notice, gentlemen of the jury, in the progress of this case, that the names of those high in authority and official rank have appeared, and often appeared, to be mingled in the transactions from which these indictments have sprung. Mr. Barclay, the Consul at New York, Mr. Mathew, the Consul at Philadelphia, Mr. Crampton, the British Minister at Washington, have all of them appeared as prominent and earnest actors in the scenes which have been detailed in the evidence before you. Among the humblest of all who have been named, is this poor and unfortunate man—a stranger in a strange land, forlorn, friendless, and deserted, for whose conviction the zeal and learning of the District Attorney, and the power of the Government, have been so earnestly and sternly pressed upon you. And here, pausing for an instant, let me pay my tribute of respect to the learned District Attorney, for the candour and liberality with which he has conducted the case, and for the more than usual fulness, perfection and ability with which he has prepared and managed this prosecution. The power of the Government, so ably exerted and directed by him in this prosecution, is in strange contrast with the preparation this poor and friendless man has been able to make for his defence.

I cannot suppose, gentlemen of the jury—I will not suppose—you will not, I trust, suppose for an instant, that these high functionaries of a foreign but friendly State, dwelling within our borders, have consciously either evaded or violated the provisions of any of the laws of the land. You will not believe that these gentlemen of standing, character, and intelligence have deliberately planned an infraction of the laws of the country, and then left this humble instrument of their designs unfriended to bear the severe penalty of a law broken under their advice and in the execution of their requests.

You will the rather, gentlemen, believe with me, that, conscious of their own integrity, and with the law in full view before them, and with experience and capacity to construe the law aright, they so ordered their own course and so directed their subordinate agencies, that no violation of the law should anywhere take place. This, gentlemen, I trust you are now about to find. In a word, I shall submit to you that no offence is proven within the construction of the Act which I shall ask the learned Judge to give you.

May it please your Honour, the offence with which this man is charged is unknown to the common law. The right of any man to expatriate himself cannot under our laws be questioned, except so far as the statute may have forbidden it to be done under certain particular circumstances, or with a certain intent which the statute forbids and punishes. Such a statute is the subject of strict construction. If the facts are not within its fair spirit and construction the offence is not made out, and it is your duty to acquit. Now what is the offence created by the statute, in derogation of that which otherwise would not be unlawful or in any way punishable. The second section of the Act of Congress of April 20, 1818, under which the indictment is pressed, provides that if any person shall, within the territory or jurisdiction of the United States, enlist or enter himself, or hire or retain another person to enlist or enter himself, or to go beyond the limits or jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign prince, state, colony, district or people, as a soldier, &c., “every person so offending shall be deemed guilty of a high misdemeanour, &c.”

The offence does not consist of course in a person hiring or enlisting, and there is nothing of that kind in the case, but it consists either in hiring or retaining other persons to enlist, or hiring or retaining other persons to go beyond the limits of the United States with intent to enlist. The offence then is “the hiring or retaining.” Now that means something more than mere persuasion. It does not mean that the mere exercise of an influence which operates upon the reason of a person and induces him to go, creates the offence. It must be a “hiring or retaining,” or in other words it must be the

creation of a legal obligation, or of that which, irrespective of the provisions of this Act of Congress, would amount to a contract or legal obligation, and be capable of enforcement as other legal contracts are.

I submit then, to your Honour, this, as the true construction of this Act, and I ask you so to instruct the jury.

Now, gentlemen, upon the whole testimony in the case, has the evidence raised in your minds a conviction, free from all doubt, that there existed between Mr. Hertz and any of the several parties named in these indictments a valid, legal, binding contract "of hiring or retaining" them to enlist or to go beyond the limits of the United States with intent to enlist? If it has not, it is your duty to acquit. Can you upon your oaths, on this testimony, say to me there has been such a conviction established in your minds?

Turn with me for a moment to the testimony. I shall not weary you with its details. But tell me, witness after witness was examined before you, and did they not almost with an unanimous voice tell you that they were not enlisted in the service of any foreign prince or state, nor placed under any obligation to enlist, but simply were to be transported to Halifax, and they were in the exercise of a perfectly free and independent judgment, either to enlist in the service of the Queen, or to decline to do so, as they might in their mere discretion see fit to do? It is true there have been several witnesses upon the stand whose testimony might receive a different construction, but remember, gentlemen, the disadvantages under which these witnesses laboured. They were foreigners—Germans—who spoke our language imperfectly, incapable of expressing as you or I would do those nicer shades of meaning which are needful to convey a true and precise impression of the facts. You will not say to me that such testimony, and so little of it, will bear down in your minds the full strong current of other testimony, some of it written and precisely embodying the exact plan and intention, much of it oral, but clear and exact and perfectly consistent with that which was written, and all showing beyond question that no man was "hired or retained" in this country for any purpose whatever, but that they were simply persuaded to go to Halifax, and when there were in the perfectly free exercise of their judgments in their mere discretion to determine either to enlist or to refuse to enlist as they might then choose.

I can feel no doubt, gentlemen of the jury, that you will find this to be the weight of the testimony. If you do, I ask you to acquit. If you do, you will find that there did not exist between Hertz and these parties a contract such as, irrespective of this Act of Congress, would be valid, legal and capable of being enforced, and so finding, as there was no "hiring or retaining" within the meaning of the Act, you will acquit.

Gentlemen of the jury, I represent a very humble man, a poor, desolate stranger. If the law has been violated—which in view of the construction I have just given you it plainly has not—there are others upon whom with more justice its penalties should be visited. Let us shield this man, whose highest offence, if offence he has committed, is ignorance of the law, and let those wiser men of higher rank bear the penalty. This question should be settled elsewhere, not here. If our laws have been outraged, the Government of Great Britain has done it. Let that matter be settled at Washington, and not in an account between the Government and this obscure and humble man. But, gentlemen, I will not detain you any longer. You will not, I am sure, find in the facts of the case that the law has been broken anywhere or by any man. You will not find that mere persuasion is the creation of a legal contract, or that a man who is left free to the unpledged exercise of his own mere discretion has been "hired or retained" within the meaning of this Act. And so thinking and so finding, you will rejoice to restore this unfortunate man to his friends and his home, and to the wife and the children who wait for and long to welcome him there.

Mr. Guillou said: May it please the Court, gentlemen of the jury: If you will bear with me at this late hour of the day for five minutes, I will close my duties within that time. It is the boast of us all that we live in a land of laws, it is our safety that the law is administered by two tribunals—the one explaining the law, and the other applying it to the facts in evidence. The indictments upon which you are to pass, some twelve or thirteen in all, charge the defendant Perkins, together with Hertz, with having enlisted specified individuals, A, B, C. The crime with which he stands indicted, is the enlistment of persons to serve in a foreign country. I have turned my attention carefully to the testimony in this

case, because when counsel makes an assertion to a jury on a point of fact, it is his duty to ascertain that he is right in his statement, and I say, after examining this testimony, that there is not any portion of it which shows any connection of Perkins with Gilroy, Budd, Casey, or any other person whose name is in any one of these bills, as a party sent away or enlisted. If I am right in this statement of the testimony, there is an end of this indictment, for the law requires that the party charged be shown by the evidence to have acted in relation to the particular crime which is averred in the particular bill, and in relation to the particular party, the subject of the crime. You will, therefore, when you take up a bill remember this, and ask yourselves whether Perkins had anything to do with the hiring or enlisting of the man whose name is mentioned in it; if there is no evidence to show that he had, you will return a verdict of "Not guilty" as to Perkins, and as you take up each bill so examine and declare upon it. As to the other defendant, I have not a word to say; my friends on the other side have fully gone into the case and given you the law and the facts bearing upon it.

There is this principle which rests at the basis of law, that the crime must be proved to have been perpetrated. Therefore, so far as the defendant Perkins is concerned, consider him not connected in this case with the other defendant, but on trial alone, and then ask yourself the question, Did Mr. Perkins do anything at all to enlist or get off Gilroy or any other person? You will find that the burden of the testimony bears directly against such a conclusion and shows that he had nothing to do with it. I think, therefore, that you will be able to arrive at your verdict readily and without difficulty. It would be a task of the most painful character, if his Honour, after hearing the evidence in this case, were to proceed to pass sentence on this defendant, however indiscreet in speech he may have been, as you can but entertain a great doubt of his guilt. The law says that if you have a reasonable doubt of the guilt of the person charged, such a doubt as would arise in any reasonable mind, such doubt is the safeguard of the defendant, and entitles him to an acquittal. I hope you will have no difficulty in this case, but that at least you entertain a doubt which favours the defendant, and will relieve his Honour from passing sentence. I ask you to find a verdict of not guilty as to the defendant Perkins.

Mr. Van Dyke, in reply, said he would follow, with pleasure, the example of his learned friends on the opposite side, and briefly bring this protracted trial to a close. He desired to confine himself strictly to a reply to the positions taken up by the counsel for the defendants.

The Act of the 20th April, is one of easy and simple construction. The learned gentleman, Mr. Remak, who first addressed the Court in behalf of the defendants, is wrong in supposing that there have been no judicial decisions, which shed light upon the Act of Congress. In 1832, John D. Quincy was indicted, under the third section of this Act, for fitting out and arming a vessel, with the intent that such vessel shall be employed in the service of a foreign prince. The case went up to the Supreme Court of the United States, and is to be found in 6 Peter's Reports. It will be observed, upon examination of that case, the law in reference to our neutrality is somewhat different from the general criminal law of the country. The argument there made by Mr. Williams for the United States was, that these Acts of Congress should be construed according to the meaning and intention of Congress, and in support of this argument, he cited, that part of Judge Marshall's opinion on the Penal Laws of the United States, as reported in the case of *United States v. Wiltberger*, 5 Wheaton 95, "that, although penal laws are to be construed strictly, they are not to be so construed as to defeat the obvious intention of the Legislature. This argument was answered in an able manner by Mr. Whirt, but Justice Thompson delivering the opinion of the Court, said, 'it was sufficient to establish, by this testimony, the committal of the crime, according to the plain meaning of the words used in defining the offence.'"

The whole policy of our Neutrality Laws require a liberal construction of the statute, if, indeed, it is to be effective in preserving our neutrality between foreign belligerents.

It is also contended by another counsel of Mr. Hertz (Mr. Cuyler) that there must have been an absolute contract and consideration paid. This position is not the law, as I understand it. The retaining, whether by coaxing

or otherwise, was sufficient. The engaging, which is the meaning of the word "retaining," whether by means of present pay, or the promises of future compensation, is sufficient.

But here there was an absolute contract. This is a question of fact for the jury, and if they so find, any difficulty on the question raised by the eloquent counsel is avoided. The conditions of the contract were verbal, and its execution was consummated by the signatures of the parties to the roll-book, each one signing that book clearly understanding what he was to do, and what he would receive for it. That contract stands for all legal purposes in the same position as though it had been entirely in writing, and were it not from its very nature and general character void, *ab initio*, could be enforced in any court of common law, and the bounty or pay mentioned for the services could be recovered from any private contracting parties. Debts and damages are daily recovered upon agreements much more carelessly made. The terms of the contract were, on the one side, that Peter Muhn and William Budd, and a score of others engaged, should go to Halifax, for the purpose of enlisting; and on the other hand, certain remunerations were to be paid them by the defendant's principal, for the performance of their part of the agreement.

The pay was to be received, it is true, after they arrived at Halifax; part of that pay was the privilege of being received into the Queen's service. They were, also, to receive a free-ticket and passage to their destination. This contract was considered so binding, that one of the witnesses tells us that force would be used at the barracks to compel the enlistment when there, and even the poor privilege of repentance was not allowed to the indiscreet and hasty. They were also to receive a monthly pay. Now if this is not an absolute hiring of a party to enlist, then nothing is, and the Act of Congress is a dead letter, and should be repealed.

Mr. Cuyler.—What was it a contract to do?

Mr. Van Dyke.—A contract, sir, to go beyond the limits of the United States, with the intent to enlist in the British service. And if any doubt existed on the question of intent, such doubt is removed by the indisputable fact that the men actually did enlist, and are, in all probability, at this moment in the Crimea.

It is admitted that the parties who make this contract must be indicted in the district where the contract is made, in the place where the parties are engaged. In a case which has recently been tried before the United States' District Court for the Massachusetts District, the case of the United States *v.* Lewis Kazinski, reported in 8 "Monthly Law Reporter," p. 254, the prosecution failed substantially, because the hiring took place in New York, and the trial was had in Boston, the Court ruling that the expression of intent made in New York could not be given in evidence, and confined the prosecution to expressions of intent made in the district where the crime was charged to have been committed; and the recruits on board the vessel upon which they were arrested having expressed a different intent from that expressed at the time of hiring in New York, the cause failed, amongst other reasons, for the want of the proof of the intent required by the Act. *Exempli gratia*: to make the case more intelligible, suppose the party which left Philadelphia on the 25th of March, in the charge of Captain Strobel, had, after their arrival within the limits of the southern district of New York, expressed their intent to be to go to Halifax to work on the railroad, and Mr. Strobel, who had, in fact, assisted to engage the men in Philadelphia, had been arrested, and, under the second section of the Act of 1818, indicted in the southern district, where he happened to be found in charge with the recruits, and the able prosecuting officer for that district should offer to prove the expressions used by the recruits in Philadelphia as to their intent when arriving in Halifax, the Court would hold him to the proof of expressions of intent made in the southern district of New York, where the offence of hiring and engaging is charged to have been committed, and particularly so when the fact is brought to the knowledge of the Court that the evidence as to the intent expressed in the two places differs most materially and substantially. Now this was the case of the United States *v.* Kazinski, and for this want of sufficient proof of the intent in the district where the trial took place, the defendants were acquitted.

But this case is important for other reasons. It settles two of the fundamental questions which must arise in every prosecution under the second section of this Act of Congress.

First. The meaning of the term "hiring" or "retaining," which is to be construed in their every day acceptation, and is virtually nothing more than "engaging"—the word used by the learned judge.

Secondly. That the hiring must be within the district where the crime is charged to have been committed, and I have shown that such hiring, so far as it could be consummated anywhere, was actually done here.

A single word, in reply to the remark of Mr. Cuyler, as to the propriety of prosecuting this defendant, while persons of more importance are permitted to pass unpunished. I agree with my learned friend that it is rather unfair in one sense, that Mr. Hertz, the mere humble instrument of a great nation, should suffer for the acts of his superiors. But Mr. Hertz was a free agent, and acted voluntarily in the whole affair. He sought for and obtained the position under Mr. Crampton and Mr. Howe, which enabled him to violate our law, and he has no right to complain if he suffers the penalty of his own wilful misconduct, and it is the duty of the jury, if they believe him guilty, so to find him. You will also recollect, gentlemen, that the prosecution of this defendant was the only means by which the Executive of the United States could be best informed of the impropriety of the conduct of those Representatives of the British Government who have been accredited as fit and honourable men, claiming peculiar privileges near our Government. I have no doubt that this trial has furnished such information, and that such steps will be adopted as are sanctioned by international law. But with that you have nothing to do here. Your only duty is to impartially inquire into the conduct of Mr. Hertz and Mr. Perkins, and to render a fair verdict under the evidence. With that verdict, whatever it may be, I shall have no complaint to make.

Mr. Van Dyke having concluded, Hon. John K. Kane charged the jury as follows:—

I intended, gentlemen of the jury, when we separated, to avail myself of the leisure afforded me to put my charge in writing, but I have been prevented by controlling circumstances from doing so, and my remarks to you therefore, will be less closely connected perhaps, though I trust they will not be on that account less intelligible and clear.

The case has involved, in its progress, a train of facts of very considerable political interest, perhaps of more general interest in that aspect of it, than in its bearing on the questions which are to be decided by your verdict. There are few among us, probably none, who have not felt aggrieved at the tone with which the press of foreign countries, and occasionally of foreign statesmen of the day, have commented upon what they have been pleased to call over alacrity of the American people to engage in military controversies in which they properly had no rightful part. Our people and our government have been accused of forgetting the obligations of neutrality, and pushing ourselves forward into the conflicts of foreign nations, instead of minding our own business as neutrals, and leaving belligerents to fight out their own quarrels. For one, I confess that I felt surprised, as this case advanced, to learn, that during the very time that these accusations were fulminated against the American people by the press of England, there was, on the part of eminent British functionaries here, a series of arrangements in progress, carefully digested, and combining all sorts of people, under almost all sorts of influences, to evade the laws of the United States by which our country sought to enforce its neutrality; arrangements matured, upon a careful inspection of the different sections of our statutes, ingeniously to violate their spirit and principle without incurring their penalty, and thus enlist and send away soldiers from our neutral shores to fight the battles of those who were incontinently and not over courteously admonishing us to fulfil the duties of neutrality.

I allude to these circumstances, and this train of thought, gentlemen, not because it is one that should influence your action as jurors, but because I feel it my duty to guard you against its influence. The question which you have to decide is not whether there has been an effort on the part of any foreign functionary to evade the provisions of our Acts of Congress, but whether these two defendants have or have not violated the provisions of the Act of Congress which are cited in these bills of indictment; your verdict will respond to the simple question, Are these two men guilty of the crime with which they are charged?

In order that my remarks may not hereafter be embarrassed by the necessity of using the plural when the singular is more appropriate, I will say to you, at the outset, that there is no evidence against one of these defendants. Before a jury can properly convict an individual of a crime, they must be satisfied, by clear evidence, that the crime has been committed by some one. We have no statute which affects to punish braggart garrulity; and unless the particular offence of enlisting certain definite persons has been committed by Perkins, one of the defendants, though he may have proclaimed upon house-tops that he has recruited armies innumerable, no jury can properly convict him of the offence he professes to have engaged in.

I pass to the consideration of the case of the defendant Hertz. He stands indicted, sometimes jointly with another, sometimes alone, with the offence of having hired and retained certain persons to go out of the United States for the purpose of enlisting and entering themselves as soldiers in the service of a foreign prince, state, or territory.

The Act of Congress is in these words,—I read the words material to the question, leaving out those which apply to a different state of circumstances:

“If any person shall, within the territory of the United States, hire or retain any person to go beyond the limits of the United States, with the intent to be enlisted in the service of a foreign prince, he shall be deemed guilty of a high misdemeanour.”

The question which you have to pass upon is, did Henry Hertz hire or retain any of the persons named in these bills of indictment to go beyond the limits of the United States, with the intent to be enlisted or entered in the service of a foreign State?

Did he hire or retain a person? Whatever he did was within the territory of the United States.

The hiring or retaining does not necessarily include the payment of money on the part of him who hires or retains another. He may hire or retain a person, with an agreement that he shall pay wages when the services shall have been performed. The hiring or retaining a servant is not generally by the payment of money, in the first instance, but by the promise to pay money when the service shall have been performed; and so a person may be hired or retained to go beyond the limits of the United States with a certain intent, though he is only to receive his pay after he has gone beyond the limits of the United States with that intent.

Moreover, it is not necessary that the consideration of the hiring shall be money. To give a person a railroad ticket that cost four dollars and board and lodge him for a week, is as a good consideration for the contract of hiring, as to pay him the money with which he could buy the railroad ticket and pay for his board himself. If there be an engagement on the one side to do the particular thing, to go beyond the limits of the United States with the intent to enlist, and on the other side an engagement, that when the act shall have been done, a consideration shall be paid to the party performing the services, or doing the work, the hiring and retaining are complete.

The meaning of the law then is this: that if any person shall engage, hire, retain, or employ another person to go outside of the United States to do that which he could not do if he remained in the United States, viz., to take part in a foreign quarrel; if he hires another to go, knowing that it is his intent to enlist when he arrives out; if he engages him to go because he has such an intent, then the offence is complete within the section. Every resident of the United States has the right to go to Halifax, and there to enlist in any army that he pleases; but it is not lawful for a person to engage another here to go to Halifax for that purpose. It is the hiring of the person to go beyond the United States, that person having the intention to enlist when he arrives out, and that intention known to the party hiring him, and that intention being a portion of the consideration because of which he hires him, that defines the offence.

I believe that, after making this comment upon the law, I might pass on to the fact; but it occurs to me to add, that you are not to require proof of the connection of the defendant with each particular fact and circumstance which has been given in evidence, to show the working out of the general plan.

If you believe the witnesses, the object here was to effectuate an enlistment beyond the borders of the United States, and yet escape from the provisions of

this section ; to do effectively, and yet not seem to do. If you are satisfied, no matter what was the avowed object of the party, no matter what the pretext, if you are satisfied that Henry Hertz was here engaged in hiring and retaining men to go off to Nova Scotia, there to enlist, that being their intention, and he believing that it was so, and therefore hiring them ; then, no matter what was the costume or mask which the transaction wore, he has committed the offence charged in the bill of indictment.

As to the evidence, gentlemen, you have listened to it very carefully, and it has been commented upon abundantly. I do not know that it is my duty to detain you by a single remark on it. It is all on one side. Whether it establishes the fact is for you to judge. The enlistment necessarily includes the action of different parties ; the concert between them is to be inferred from their acts. The intention of the party engaged or retained to enlist is to be gathered from his conduct and declaration here, from his conduct after he reaches the foreign country, and from the action of third persons with whom he perfects the enlistment that he may have contracted for here. You are, therefore, while looking primarily at the conduct of Hertz, to look also at the actions of others tending to the same objects ; and if you judge that they were actually in concert with him, then all their acts, done in pursuance of a common purpose and plan, are to be regarded as his.

With these remarks, I leave the case in your hands.

At the conclusion of the Judge's charge the jury retired, and returned in about fifteen minutes. On taking their seats, the Clerk of the Court, in the usual form, put the question—

“Gentlemen of the jury, have you concluded upon your verdict ?”

To which the foreman replied, “We have.”

Clerk.—How say you, guilty or not guilty ?

Foreman.—Guilty as to Henry Hertz, in manner and form as he stands indicted on all the bills of indictment ; as respects Emanuel C. Perkins, not guilty.

The jury were then discharged.

Sentence deferred for the present.

And now, September 29, 1855, Theodore Cuyler, Esq., and Stephen Remak, Esq., for Mr. Hertz, move for a rule for a new trial, and, by leave of Court, file the following reasons.

UNITED STATES *v.* HENRY HERTZ.

In the District Court of the United States, sur indictment for unlawful enlisting, &c.

1. That the learned judge erred in admitting in evidence, proof of the acts and declarations of other persons, done and said in the absence of defendant.

2. The learned judge erred in his construction of the language and meaning of the Act of Congress, 1813, under which these indictments are framed. That he held and so instructed the jury, that the words “hire or retain,” employed in said Act, would be satisfied by less than an absolute contract, founded upon sufficient consideration, and capable of legal enforcement, if the same were not made unlawful by the provisions of said Act.

3. The weight of the evidence was, clearly and decidedly, that no person was “hired or retained to enlist, or to leave the United States,” with intent to enlist, but the several persons sent to Halifax were engaged to go, and were sent there, with the distinct understanding that they were there to determine whether they would or would not enlist, and were, until then, entirely free and at liberty, bound by no contract or engagement, and therefore having no intent, &c., within the meaning of the Act of Congress.

4. The verdict was against the evidence. And

5. The verdict was against the law.

THEODORE CUYLER.
STEPHEN S. REMAK.

And now, October 12, 1855, the motion for a rule for new trial, coming on before the Honourable John K. Kane, is argued by Theodore Cuyler, Esq., and Stephen S. Remak, Esq., for the motion, and the same being denied, and new trial refused.

Mr. Van Dyke said: The motion of the defendant for a new trial being refused, I ask leave to present to this Court the confession which has been made to me by the defendant, Henry Hertz.

This prosecution has not been merely local in its tendencies, nor the influence of its results likely to be confined to the sphere of an ordinary prosecution in this district. Its results are of a far more extended importance.

The disclosures made in the progress of this cause may be the groundwork of an important step on the part of the Federal Government, in relation to those who have been instrumental in producing that system of interference with our affairs which have formed the basis of this prosecution.

I am permitted to say, that the trial which has just resulted in the conviction of this defendant, was authorised by the National Executive, and, before making the motion which I intend to submit to your Honour, I beg leave to read the instructions which I have received in relation to this trial.

Being aware that the system of enlistment had been effectually broken up by the prompt execution of the warrants which I had caused to be issued for the arrest of various parties, and by the efficient aid which Mr. Wynkoop, the Marshal of this district, and his officers, had otherwise furnished me in ferreting out the system adopted for the evasion of our laws, I had supposed there might not be any urgent necessity in pressing the prosecution of the defendants who have just been tried, and had written to the Attorney-General of the United States, asking whether it was the desire of the Administration further to press these prosecutions: to which I received the answer dated September 13, 1855, and also the letter dated September 17, 1855, both of which I shall take the liberty of reading to the Court.

Mr. Van Dyke read the letters as follows:

“*Attorney's-General Office,*
September 12, 1855.

“Sir,

“In reply to your letter of the 10th instant, on the subject of the indictments pending against persons charged with recruiting for the military service of Great Britain, I have the honour to make the following observations.

“Mr. Mc Keon has been advised of the desirableness of conferring with you personally, either by himself or his assistant, in regard to new evidence to which he may have access, and which can be useful to you.

“I suggest the expediency of trying only a part of the cases now, especially if you fail to convict in some leading case.

“But the most important consideration is this:

“This Government has, of course, addressed to that of Great Britain such demands of public redress and satisfaction in the premises as the national honour requires. But the Government of Great Britain, with extraordinary inattention to the grave aspect of its acts, namely, the flagrant violation of our sovereign rights involved in them, has supposed it a sufficient justification of what it has done, to reply, that it gave instructions to its agents so to proceed as not to infringe our municipal laws; and it quotes the remarks of Judge Kane in support of the idea that it has succeeded in this purpose. It may be so. Judge Kane is an upright and intelligent judge, and will pronounce the law as it is, without fear or favour. But if the British Government has, by ingenious contrivances, succeeded in sheltering its agents from conviction as malefactors, it has, in so doing, doubled the magnitude of the national wrong inflicted on the United States.

“This Government has done its duty of internal administration in prosecuting the individuals engaged in these acts. If they are acquitted by reason of a deliberate undertaking of the British Government, not only to violate, as a nation, our sovereign rights as a nation, but also to evade our municipal laws, and that undertaking shall be consummated by its agents in the United States, when all this shall have been judicially ascertained, the President will then have before him the elements of decision as to what international action it becomes the United States to adopt in so important a matter.

“I have, &c.

“Jas. C. Van Dyke, Esq.,

(Signed)

“C. CUSHING.

“United States' Attorney, Philadelphia.”

"Attorney-General's Office,
September 17, 1855.

"Sir,

"I desire to make a further suggestion in regard to the trial of parties charged with recruiting soldiers in the United States for the service of the British Government.

"It is known that instructions on this subject were given by that Government to its officers in the United States. We are told by Lord Clarendon that those officers had 'stringent instructions' so to proceed as not to violate the municipal law, that is, to violate its spirit, but not its letter. If so, the instructions themselves violate the sovereign rights of the United States.

"But, in the meantime, every Consul of Great Britain in the United States is, by the avowal of his Government, subject to the just suspicion of breach of law; while, apparently, he must either have disobeyed his own Government, or, in obeying it, have abused his Consular functions by the violation of his international duty to the United States.

"In these circumstances, it is deemed highly necessary that the British Consul at Philadelphia, or any other officer of the British Government, shall not be suffered to interfere in the trials, as he attempted to do on a previous occasion; that no letter of his be read, except in the due form of evidence; and that if he have anything to say, he shall be put on the stand by the defence in order that he may be fully cross-examined by the prosecution.

"It is clear that he has no right, by any rule of public law, or of international comity, to be heard in the case by the Court otherwise than as a witness, whether enforced or volunteer.

"I have, &c.
(Signed) "C. CUSHING.

"Jas. C. Van Dyke, Esq.,

"United States' Attorney-General, Philadelphia."

Your Honour will perceive that the object in this prosecution has been as much to break up the general system which has been adopted by the British Government to violate our municipal laws, as it was to punish those who should be found guilty as the instruments of the Government.

If the present defendant, since his conviction, has contributed in any manner to aid the Government in this investigation, and that aid has been the result of a sincere regret and repentance for his past conduct, it is, in my opinion, but just that he should have the benefit of his present conduct in the sentence which your Honour may see fit to pronounce in his case.

I, therefore, move that the defendant's confession be read, and that it be filed of record among the proceedings in the cause, to be duly considered by the Court, in the judgment which may hereafter be pronounced against the defendant.

Per curiam. Let the paper be read and filed of record.

The Confession is as follows :—

UNITED STATES *v.* HENRY HERTZ.

In the District Court of the United States, in and for the Eastern District of Pennsylvania.

United States, Eastern District of Pennsylvania, ss.

Be it remembered, that on this 11th day of October, A.D. 1855, before me, Charles F. Heazlitt, a Commissioner of the United States, personally came Henry Hertz, who being duly sworn, says:

That some time in the month of January 1855, I read in the London "Times" a notice of the passage of a resolution of the British Parliament, authorizing the enlistment of a Foreign Legion. A day or two afterwards, I went to the United States' Hotel, where I heard three or four gentlemen speaking of this country as a place where enlistments could best be made. One gentleman, by the name of Miller, pointed at me, as the man best fit for enlisting men for the British service, because, as he said, I am so well known among the German and foreign population. One of the gentlemen sitting there arose, and

said to me, "I am an English officer; I am not particularly engaged in this matter now, but I can tell you how to embark in it without running any risk, and I would be glad if you would engage in it; but in order to accomplish this, it is necessary for you to go to Washington and see Mr. Crampton, the English Ambassador."

From what I learned afterwards, the name of the gentleman was Mr. Bruce McDonald. Two or three weeks afterwards I went to Washington, and was introduced by many gentlemen, by letters, to Mr. Crampton. I had obtained these letters without telling those gentlemen the object of my visit; but, before delivering any of these letters of introduction, I addressed a note to Mr. Crampton, requesting an interview with him: that note did not state the object of the interview. The principal object of my visit to Mr. Crampton was to ascertain whether I could safely embark in this enterprise. I was stopping at Willard's Hotel, and, in reply to my note, I received the note hereto annexed, marked A. (C. F. H.) (This note has been published in Mr. Strobel's testimony, and will be found on page 67.) After the receipt of this note, I called on Mr. Crampton, at his residence. It was on Sunday morning when I called. I saw Mr. Crampton. He said in substance: "Your letters of introduction assure me that I may have full confidence in you: I have not sufficient authority yet from the Home Government with regard to the matter, but I expect early authority from Lord Clarendon. I have already received a letter from Lord Clarendon, inquiring how many men might be enlisted in this country for British service, and what the United States' Government would think of such an attempt. I can tell you this: that if you embark in this matter, you can make a great deal of money; if procuring of men for the English service should be undertaken, it will be very advantageous to you; but I expect a letter from Lord Clarendon by the next steamer, which may be expected in eight or ten days, giving me full explanations and instructions how the matter is to be conducted." In this conversation he had reference to enlistments in this country for the Crimean war. He stated that he had answered Lord Clarendon's first letter, and that the letter he expected was in reply to his answer. He did not state the contents of his answer to Lord Clarendon's letter. He then said, "I have nothing more to tell you to-day, but when I receive Lord Clarendon's letter I will write to you." I returned to Philadelphia, and should have thought nothing more of the subject, but about the 5th of February, 1855, I received a letter from Mr. Crampton, through the post office, which letter is hereto annexed, marked B. (C. F. H. The letter referred to will be found at foot of page 67.) I sent him a telegraphic despatch, that I was too much engaged to come to Washington now, but that I would call upon him at Washington as soon as my time would permit it.

I went some days afterwards (say three or four days) to Washington, and saw Mr. Crampton at his private residence; he was indisposed. I told him I had received his letter, and desired to know what I had to do. Mr. Crampton replied, "I have received a letter from Lord Clarendon, which contains the statement that the British Government has made arrangements to establish depôts at some place in Canada, on the frontier of the United States, in order to receive the men who may be procured in the United States. In pursuance of this information, I have sent my special messenger to the Governor-General of Canada, and to the Commanding General of the troops in Canada (whose name, I believe, is Roy), requesting them to designate the places where depôts may be established for the reception of persons who may be procured in the United States." I informed Mr. Crampton that I had incurred expenses already by coming twice to Washington, and that I would have to waste more time until the messenger returned, and that I would have to neglect my business; I therefore requested him to refund to me the expenses already incurred by me. Mr. Crampton replied, "I have at present no money at my disposal, and have no authority to give you any; but I am certain you will be paid not only for your services, but that your expenses will be repaid to you." I asked Mr. Crampton what was to be done? "How is the matter to be conducted?" He said, "As far as I know, there is a law in the United States forbidding the enlisting of soldiers within the territory of the United States. It is, however, not difficult to evade this law, because who can prevent you from sending labourers to Canada? but we must take care to do this in such a way that it shall not appear in defiance of the Government. My idea is, further, that if you

have twenty-five or thirty men together, that either yourself or some other confidential person should take them direct by railroad to Montreal, where, I think, a *dépôt* may be erected." I then asked him, "When do you think this matter will commence?" Mr. Crampton said, "I cannot say precisely yet, because my messenger will perhaps be prevented from returning to Washington very soon, as the roads are obstructed by ice and snow. It is possible that he will call on you at Philadelphia, on his return from Canada, and will give you the necessary information. In the meantime, you may call on our Consul, Mr. Mathew, in Philadelphia, and he, Mr. Mathew, will probably be able to give you the necessary instruction." The conversation with regard to the procuring men was finished, but I reverted again to the law bearing upon the subject. I asked him "How am I backed, in case a charge is made against me? I have a wife and children."

Mr. Crampton replied, "first, that the law was exceedingly lax; and, secondly, that if anything should happen, the British Government would not allow any one to suffer who had been engaged in assisting them to furnish the men." I replied, "that the popular voice is against this matter," but Mr. Crampton said, "never mind about this popular voice; if a house in Liverpool falls, the whole United States trembles." After Mr. Crampton had given me such assurances, and had used the expression, "I give you my word as a gentleman that nothing unpleasant shall happen to you," I then made up my mind to act for the British Government. Before I left, Mr. Crampton assured me that he would send a man to my house in Philadelphia, who would make such arrangements with me as would enable me to procure men, and send them to their destination. I then returned to Philadelphia, and waited ten days, without hearing anything of the matter. I called then on Mr. Mathew, the British Consul in this city. Mr. Mathew received me very politely, and informed me that he was just reading a letter from Mr. Crampton, in which my name is mentioned. He further said, "We (speaking of his Government) are very anxious to procure men; but, alas! we have not received any instructions from Canada as to where the *dépôts* are to be erected; however, we expect every day and every hour the return of the messenger." About three, four, or five days after that, I visited Mr. Mathew again; he then said to me, "I would advise you to go down to Washington again, for," said he, "although I do not know of any of the particulars of the case, yet I have no doubt Mr. Crampton does, and can give you all the information necessary." This was about the 15th of February. I went to Washington again, and saw Mr. Crampton, though he was indisposed. All that I could learn from him was, that in a week or two he would send a man to my house in Philadelphia; this man he said he expected would be sent from the Government in Canada to my house, with instructions and means for the recruiting of men in this country. In this conversation Mr. Crampton also stated to me, that if I should get into any difficulty, I should employ eminent counsel. He also said, that so far as he could ascertain, the Government of the United States would not interfere in the matter. I must distinctly aver that, in particular, this last statement and representation on the part of Mr. Crampton, gave such full assurance, that I did not, for one moment, think it possible that I could be charged with a misdemeanour or crime. I thought that the matter had been privately arranged between the United States and the English Government; Mr. Crampton endeavoured to, and did, leave that impression on my mind. I was led so to believe from what Mr. Crampton said to me. I returned to Philadelphia, and in about a week afterwards, on returning home from my office one day, my wife handed me a slip of paper, on which was written, "Joseph Howe, Jones' Hotel, Parlour No. 1." She stated that the gentleman whose name was on the paper, called and spent with her two hours waiting for me. After dinner, on the same day, I called on Mr. Howe at his hotel, and saw him; he asked my name, which I gave him. He said he was extremely glad to see me, as his time for staying in Philadelphia was very limited; that he had to go to New York and Boston, where his agents expected to see him in a few days. I asked him what authority he had for engaging me to enlist men for the Foreign Legion? He answered, "I am authorized by the Governor, Sir Gaspard le Marchant, of Nova Scotia, who, in accordance with instructions from the English Government, is the only man who had control of the enlisting service for the Foreign Legion, and the especial control over the *dépôt* in Halifax, established for the men procured in the United States." I told him, "This is all very well, but I have not the pleasure of knowing the

Governor." He answered me, "Mr. Crampton has given me your direction, and recommended you as a man in whom I can place full confidence." I answered him, "that I would believe anything, but I should like to see some documents from Mr. Crampton." He said, "I am sorry that I cannot show you such at present, as the only document I have received from Mr. Crampton was an introduction to Mr. Mathew, and that letter I have already delivered." I said I would be satisfied if Mr. Mathew would corroborate his statement, and then I would be willing to act on his proposition." He asked me to see him again the next morning at 9 o'clock. I called at 9 o'clock the next day, and met there Captain Rumberg, Lieutenant Van Essen, and another gentleman by the name of Link, a friend of Mr. Van Essen. Mr. Howe introduced me to those gentlemen, whom I knew before, but had never any conversation with them about the recruiting business. He, Mr. Howe, said, "Gentlemen, I suppose you know Mr. Hertz; he is the only confidential agent for the State of Pennsylvania to get men for the Foreign Legion." I said to him, "I have not got so far yet, and stand upon my demand of yesterday;" referring to his statements being corroborated. He said, "That is all right, that gentleman," meaning Mr. Mathew, "knows you already."

This interview was on the 13th March. He said, "I am glad to hear that Mr. Mathew has made all inquiry about your character, and feels fully satisfied." Mr. Howe then said to Mr. Rumberg, that he would get a Colonelship, and Van Essen a Captaincy, and told me by all means to send off those men (Mr. Rumberg and Van Essen) with the first transport, in that capacity. I answered, "that if I was satisfied I would do so." He bowed to these gentlemen, and begged to be excused, as he wished particularly to speak with me alone. They went away. Mr. Howe then said, "I have heard from Mr. Crampton that you are a man of limited means, and as means are necessary he could furnish me with any amount." I told him I wanted 250*l.* to 300*l.* to start with. He answered, that is only a trifle. You need not be economical, as money is no object at all—I cannot give you more than 300 dollars at present, as I have drafts on different places, which I will put in the hands of one man, and this man would get authority from me to furnish you with the means you want. That it would be necessary to get men as quick as possible, and for this purpose I think it would be best to insert some advertisements in the German papers, and in the English papers that are most read by the Irish population, who are Her British Majesty's subjects. I asked him what he meant to insert or advertise—if he thought it proper that I should call for volunteers: he said, "that will not do, but I will write you an advertisement which you may insert immediately without running any risk." He wrote this paper (hereto annexed, marked C. (C. F. H.)) This paper is the original proclamation published on page 67) in my presence, and delivered it into my hands. He also wrote a contract for me to sign, in which I acknowledged myself to be a referee for the Governor of Nova Scotia, and was willing to send men. I was to receive eight dollars for each man sent to Halifax and extra for each man that was competent to be an officer—4*l.* extra. And for sergeants I was to receive four dollars extra. I did not know at the time that this contract was illegal, and have never received anything for any services I rendered Mr. Howe. Mr. Howe stated in this conversation, in the presence of Rumberg, Van Essen, and Link, that Mr. Crampton had given him the direction of each of us, referring to Rumberg, Van Essen and myself, as the only persons with whom he was to confer in this city, and that Rumberg and Van Essen had been highly recommended to Mr. Crampton by some French Ambassador.

He then went to his writing-desk, took 300 dollars out, and was handing them to me. I told him, "I do not take any money from you." I had so told him once before, as I actually wanted the money through the hands of Mr. Mathew. I was at this time still doubtful whether I should embark in this enterprise, as all I have been stating now was mere conversation, and I had not done anything at all that could make me liable in any shape or form. I desired to test the question whether I should act or not, thinking that Mr. Mathew would not play any part in this affair if it would be against the law of the country, and I therefore asked that the first step be taken by him.

Mr. Howe then said, if I would prefer that Mr. Mathew should give you the money it should be done so. I answered, that his doing so was a great object to me, as he (Mr. Howe) was only a transient visitor, and could leave the

States any time he was disposed ; but Mr. Mathew, as a British functionary in the city, would feel himself bound to cover me if anything should happen, or any charge should be made. He said, "I am very glad to hear that you are so cautious, and I will meet your wishes ; please call to-morrow morning, here, at 9 o'clock, and if I have not left the city, I will take you to the room of Mr. Mathew, in the same hotel, and he will give you the money ; but if I have left, go to Mr. Mathew in his office, and get the money there, if he has not before sent it to your house. I asked him why he stayed at Jones' Hotel ; he said, as the British Consul stopped there, he did so ; we shook hands and I went away. In the course of this conversation, Mr. Howe remarked, "There is no necessity to be afraid of anything ; the laws of the land here are but poorly enforced, and 100% might purchase all the laws of the land."

On the morning of the 14th of March I went to Jones' Hotel ; Mr. Howe had left, but Mr. Hicks, the book-keeper of Jones' Hotel, handed me an envelope without an enclosure ; on the fly or fold of the envelope were written these words, "Go to Mr. Mathew ; it is all right." I went to Mr. Mathew's office and saw him there ; he told me "he had just sent his clerk up to my residence, 424, North Twelfth-street, with 300 dollars, which Mr. Howe had requested him to give me ; and if I would stay there, or come back again in a quarter of an hour, his clerk would be back, as he wished to have me give a receipt for the money." I remained and conversed about the best plan to begin the matter ; Mr. Mathew observed, "that he would be glad to assist me in anything, but it must be a secret, as his official standing would not permit him openly to have anything to do in the matter." The clerk returned, when the conversation ceased at a signal given to me by Mr. Mathew. The clerk handed the packet to Mr. Mathew, and Mr. Mathew counted to me 300 dollars, and I took the slip of paper marked D. (C. F. H.) in which the money had been inclosed to me. The following is a copy of this paper in handwriting of Mr. Mathew :

"Mr. Howe requests the 300 dollars sent may be given to Mr. Hertz, on his receipt in Mr. Howe's name."

He handed me a slip of paper, and asked me "to give him a receipt ;" he said, "Be careful to put Mr. Howe's name in it ;" I wrote the receipt in these words :

"Received, Philadelphia, 14th March, 1855, of Mr. B. Mathew, Three Hundred Dollars on account of the Hon. Mr. Howe."

Mr. Mathew stated further, that "if you want anything for vessels, or means for conveyance, you must go to Mr. Henry Winsor, on the wharf near Pine-street, and he will furnish you with anything in his line ; that he (Mr. Winsor) had moneys in his hands, or under his control, belonging to Mr. Howe."

I took an office on the 14th of March, and went to the "Pennsylvanian" and "Ledger," and inserted the advertisement written by Mr. Howe. The "Ledger" notice was an abstract, the "Pennsylvanian" inserted it at length. Mr. Rumberg attended to the advertisements in the "Democrat Free Press." On the 16th of March, the business commenced ; plenty of men came, and the first day I had so many that I could make a transport. I went down to Mr. Winsor, and told him I wanted a conveyance for about 100 to 140 people to Halifax ; he said, "there is no possibility to get it from here direct to Halifax, but means are procured to send them from here, with his steamers to Boston, and there the regular packets would take them to Halifax ; but at all events, it would not be possible to send such a number before Saturday, the 24th, as the steamer would not go before. I was placed in an unpleasant position, as those men were very poor and were anxious to start ; I was, therefore, necessitated to give them a little money to live. I believe it was the 16th or 17th, in the afternoon, about nine or ten persons calling themselves English subjects, came to my office ; they told me they had just come from the British Consul, who had sent them to my office to get tickets, which were left there the same day in the morning by T. L. Bucknell. I told them I would give them tickets if they would bring me a written receipt from Mr. Mathew, as I had my instructions to use those tickets with discretion. They went away ; in about half-an-hour after, a message was sent from Mr. Winsor, wishing to see me. I went down ; he presented me a letter, addressed to him from Mr. Mathew, in which he desired that Mr. Winsor should get tickets from me, and furnish the people who had called upon me as English subjects, with free passage by the schooner "Benita," of Halifax,

Captain Coffin, then laying at Pine-street Wharf, and pay the captain twelve dollars for each ticket returned by the captain to Mr. Winsor. I gave Mr. Winsor eight tickets, and he gave me the receipt hereto annexed, marked E. (C. F. H. This receipt will be found at page 92), and I saw the captain give out to Mr. Winsor a receipt for ninety-six dollars, as the captain had returned the eight tickets he had received from Mr. Winsor to him, and bound himself to deliver up those men in Halifax, and further to return to Mr. Winsor twelve dollars for each man he should not deliver up in Halifax. The captain took the eight men in his schooner, and sailed with them that evening. The same day I wrote a letter to Mr. Howe, asking for funds. Mr. Howe's direction was given me by Mr. Mathew. The following morning I got a telegraphic despatch, directing me to call on Mr. Winsor and get funds; I went to Mr. Winsor, and told him I wished 500 dollars; he told me that he had an order to pay me 100 dollars only, that Mr. Howe would be here perhaps that day or the day after, and he would furnish me with more. At the same time, Mr. Winsor told me that the steamer "Granite State" did not belong to him any more, that he had sold her to another firm, and he did not think that the firm would pay a charter for taking passengers; that he did not know, therefore, how he would act to-morrow, as he could not procure any other vessel. I telegraphed directly to Mr. Bucknell asking him what I should do to get conveyance for my "brave people." I did not get any answer. The reason why I telegraphed to Mr. Bucknell was that he was the only man that was authorised by Mr. Howe to assist the agents in sending the men to Halifax, as Mr. Howe himself was very much occupied, and travelling from one place to another. To get the people away, I went down to Sandford's Line, and made an agreement with Mr. Eldridge to pay him four dollars for each man he would take in his steamer to New York, if he could delay the departure of the steamer till Sunday. I wanted to have time to send the men by the steamer "Sandford." As Mr. Eldridge did not know me, Mr. Winsor went in and told him that everything that I did he would be responsible for. On the 25th, in the morning, the people were ready to start at 5 or 6 o'clock; but as I had no money to furnish Mr. Strobel, who had command of the party, I went up to Mr. Mathew, in Jones' Hotel, in his room, at 5 o'clock, and told him the people were there by the wharf, but Captain Strobel was not willing to start without money, and the poor people wanted to have money in their pockets. He got out of his bed and got fifty dollars, and handed it to me, saying, "If that is not enough, I will give you more." I went down to the wharf and gave twenty-five dollars to Mr. Strobel, and divided the balance among the men who were going—eighty or ninety people. These people were those I had engaged at my office to go. They went off to New York. I went the same night, the 25th, to New York, and went to Delmonico's Hotel, where I found Mr. Bucknell sleeping in Mr. Howe's room. I told Mr. Bucknell that the people either were there, or would come, as they left this morning, and asked how they were to be conveyed to Boston. I also told him that Mr. Strobel would be there and receive his further orders. Mr. Bucknell said that he would make it all right; that I should go to Mr. Barclay, at his private residence, College Place, and he (Bucknell) would soon be there to make further arrangements. I went away, and returned to Delmonico's in about an hour. I met there Mr. Strobel, who had arrived; he told me that he wanted money to feed the people, that he was obliged to take them, in four different parties, to four different boarding houses in Greenwich-street. Mr. Bucknell came down, and we went up to his private room, when he told me that he would go with us himself, to Mr. Barclay, at his office in Barclay Street, and that I should go with him. I went with him, and he and Mr. Barclay went into an inner room. Mr. Bucknell then came out, and told me to wait in his private room at Delmonico's; that he would come directly and bring the money. He came and gave me 100 dollars, which I delivered in his presence to Mr. Strobel, less five dollars. I gave him eighty dollars at that time, and had given him fifteen dollars before that morning. We went together to the Astor House, where Mr. Bucknell telegraphed to Mr. Mathew to tell Mr. Cumberland, which means Mr. Howe, not to leave Philadelphia without seeing Mr. Hertz. Mr. Howe, at the time we were in New York, had gone to Washington, and was expected to return in a day or two. I left New York and returned to Philadelphia the same night. Mr. Barclay was the British Consul at New York.

On my arrival from New York, I went directly from the dépôt to Jones's

Hotel, where I saw Mr. Howe. This was on the 26th of March. Mr. Howe told me he had returned the same morning from Washington, and as he had received a message from Mr. Bucknell, through Mr. Mathew, he had waited here for the purpose of seeing me, as he was very anxious to see me. He had in the meantime, before my arrival, sent up for Mrs. Hertz to come down and see him as he was indisposed, but she declined to do so. He told me he had come from Washington, after having a very important interview with Mr. Crampton, and that Mr. Crampton told him that as far as he could observe the Government of the United States had begun to feel a little uneasy about this matter; in the meantime that I should go on and care for nothing, as I could be quite sure I would get immediate information in case the United States' Government should determine to prosecute the matter. I told him that I was not afraid, as I had the words of such men as Mr. Crampton and Mr. Mathew that nothing should happen to me. He told me that it was 10 o'clock, and he expected to see Mr. Mathew, as he (Mr. Howe) would leave in the midnight train for New York. I told him that I was surprised that he had not sent me any money, as he said I should not be economical with it. He promised to write a note to Mr. Winsor, and all should be made right the next day; but the next day Mr. Winsor told me he had no orders; Mr. Howe had not seen him. Mr. Howe told me to word my despatches calling the men barrels or parcels. Mr. Howe also said, in this last connection, that I could make a large amount of money; that all I had to do was to blow a trumpet in the streets and that I could get a thousand for the Foreign Legion. That Mr. Korponay was highly recommended as a man of great connection in the West and Texas, and that I should endeavour to see him, and furnish him with the necessary means to start, and that as soon as I had sent him (Howe) word that I had engaged Korponay, he would send me money.

The next morning I received a telegraphic despatch from Mr. Bucknell, asking how many parcels I would send, and that I should hurry them along; that there was another company wanting to join the next expedition, so that they should go to Boston together. I answered him immediately that I supposed fifty to sixty barrels would go off by the "Sandford" to-day; some forty-seven went off by the "Sandford" that day. When I came to my office a half-an-hour afterwards I was arrested. On Wednesday, the 28th of March, I was arrested, and on the 29th I went to Mr. Mathew's office and found Mr. Mathew in a deep conversation with De Korponay. He left Mr. De Korponay and invited me into the next room, and there said to me, "Do not be down-hearted; we will do everything for you in our power." He meant by "we," Crampton, Howe, and himself. He also said, "That I should try to give Mr. Howe information of what had happened, and that I should go down to Mr. Winsor and get 200 dollars." I went to Mr. Winsor; he told me he had made all right with Mr. Mathew. I went back to Mr. Mathew's, and he (Mr. Mathew) handed the paper marked F. (C.F.H.), which is now in two parts. This paper Mr. Mathew wrote in my presence. The paper is in the following words:—

"Please call at Jones's for 200 dollars left with Mr. Sharwood, the proprietor, by Mr. Howe, at 2 o'clock."

I went up to Mr. Sharwood, the proprietor of Jones's Hotel, and I received 200 dollars of Mr. Hicks, the book-keeper, to whom I showed this paper. The same day I went down to Moyamensing to see Mr. Budd, who had sent me a message that he had no money. I gave him five dollars. I told him I could not procure bail for him, as the people did not want to go bail for a native who is engaged in a business of this character. My wife accompanied me on this occasion to the prison. I returned home with her, and there found a letter addressed to me. Afterwards I went out to take a walk with my wife, and walked down Chestnut-street, and met the porter of Jones's Hotel, John Allen I think his name is; he asked me if I had received the letter he had left at my house that day, as the British Consul had given strict orders that the letter should be delivered as soon as possible. The letter is hereto annexed, marked G (C.F.H.), and is the letter I found at my house on the occasion referred to by the porter. I have seen Mr. Mathew's handwriting. I know his style of writing, and believe this letter marked G. to be in his handwriting. The following is a copy of the letter:—

"If the sole name in the warrant and indictment is that of Glenroy, the Marshal is indictable for the false arrest of the other parties."

The counsel—if such a man as J. Tyler, O'Neal, or Lex, will paint this mean arrest in its true colours, he will prove that the parties interested were solely acting for themselves with no powerful friend behind them, to pay fines, from the sole desire to aid in a war which Europe holds to be the war of liberty; the one a German, the other a Britisher.

If they have erred their error is but light. Do these pretending republican authorities seek to wreak vengeance on them for loving freedom with England, better than Russia?

The Counsel's speech should be carefully published, and will weigh before a third hearing, which should be obtained.

If in truth, the British Consul had no part in it, the attempt to involve him should be exposed.

It may be easily shown Gilroy is not to be believed on oath. Is he a paid spy and traitor to entrap under false names!!

Honourable Marshal! Honourable District United States' Attorney!

Honourable men "Captain Power," and "Lieutenant Sommers"!!!

What is Gilroy's real name?

Where really born? Not where he says.

What his character?

What his reward?

Is the German desiring liberty, or the Britisher desiring to aid his country in a war, to be held as a criminal!!!

What has Russia paid the dominant power for this rigour?

Some of the men who shipped on the morning of the arrest, were not taken by the Marshal, and went on to New York.

The book marked "H." is the book in which the names were entered in my office, together with the three sheets of paper marked "H. 1, 2, 3." The names in the back of the book were the applicants for commissions.

The tickets produced in court are the tickets I gave to the men. Howe told me that the "N. S. R. C." meant Novia Scotia Recruiting Company, but I might translate it Nova Scotia Railway Company. I had them printed myself. Mr. Howe told me to print them in this way. The white tickets with "N. S. R." and "J. H." on it, are tickets which I obtained from Mr. Howe myself; the "J. H." are in his own handwriting. I used only eight of these, which were the eight I gave to Mr. Winsor. Those I used had Mr. Howe's seal on in wax.

On Saturday, before Strobel left, I told Mr. Mathew at that time, that the different gentlemen who expected to get a commission, were anxious to know what pay they were to receive. He told me he could not exactly tell me, but that I should call on Dr. Williams, and give him his, Mr. Mathew's compliments, and he would give me Hart's army list, which would give me the necessary information. I got the book from the Doctor, but could find nothing about the matter. I told Mr. Mathew of the result, and he said I should correspond with Mr. Howe about it, or if he should see him first he would mention it to him. The same night, on my return from New York, Mr. Howe told me he had got all the particulars from Mr. Crampton, so far as he knew it, and handed me the paper marked J. (C. F. H.)

The paper referred to contains a memorandum, as follows:

"Ensign, 5-4 sterling.

"Lieutenant, 6-8 sterling.

"Captain, 11 and 2 sterling."

This paper states the pay of an ensign, 5s. 4d. per day; lieutenant, 6s. 8d.; a captain, 11 shillings, and 2 shillings for rations. Mr. Howe said those prices referred to the per diem pay. I believe this paper to be in Mr. Crampton's handwriting.

The handbill marked K. (C. F. H.)—this is the handbill with the Queen's arms on it, already printed, page 47—is the bill brought me by Mr. Bucknell, together with the white tickets with Howe's seal on them. These bills are the same as those posted in my office. All these bills were destroyed in the presence of Mr. Bucknell, the next day, together with the tickets he brought me, except the eight I gave to Mr. Winsor. He brought me 900 odd tickets, with Mr. Howe's seal on.

When Mr. Bucknell was arrested, Mr. Mathew sent me word by a friend

that he would be much obliged to me, if I would not call on or correspond with him any more in this case, as he had apprehensions that he was closely watched by the United States' officers. The same friend of Mr. Mathew told me it would be best for me to go direct to Halifax. Mr. Bucknell told me the same thing. Before I went to Halifax, I wrote a note to Mr. Mathew. He answered me that he could not do, nor would he do anything for me in this case, which he had before directly stated to me, and that I had used some improper remarks against him. I answered him, that I was surprised to hear such remarks from him, as I had only said that the functionaries of the British Government were perfidious, and I still think so.

I left for Halifax, and had in my possession a letter to Mr. Howe, stating what he ought to in my behalf. At New York, I went to the office of Mr. Barclay, and saw Mr. Stanley, the Vice-Consul; he spoke with me about Mr. Howe, and told me that he was sorry that such heedless men as Mr. Howe had brought me and other honest people in a scrape, without assisting us; he also told me that Bucknell was going to Halifax, and that he, Mr. Bucknell, was in the same position as myself. Mr. Stanley told me that Mr. Mathew had paid Mr. Bucknell's expenses, including lawyer's fees, all the expenses he had incurred, and expressed surprise that the same had not been done for me. Mr. Stanley paid my expenses from Halifax. I met at Mr. Stanley's office Mr. Jesson, who went from this place with Strobel to Halifax. He told me in Stanley's presence that he, Strobel, and some other officers from Halifax had been sent to the United States, and were now in the United States, and were under the special control of Mr. Crampton, and any money or funds they required would be given them by different British officials, and the money which he, Jesson, required for enlisting purposes, he had to obtain from Mr. Crampton himself, and that he would go that same night to Mr. Crampton for that purpose. This was in the first part of June, about the 7th, long after my arrest, Mr. Jesson said he was at that time going on in the enlisting business, under the direction of Mr. Crampton, and I saw him send 16 men on that occasion to Boston, *via* steamboat, to go from thence to Halifax. Mr. Jesson told me he was on his way to Washington to obtain money from Mr. Crampton for that purpose, that the whole enlisting business was now entirely under the special supervision of Mr. Crampton, who had taken the matter entirely in his own hands. This conversation was in the office of Mr. Stanley, who paid Mr. Jesson some money in my presence to pay for 15 tickets for the men who were to go off that day.

I went with Mr. Jesson to the steamboat, and saw him pay the clerk of the boat for the passage of these men. I saw the men arrive the next day in Boston. They were taken charge of by another English officer named Thune. He boarded them at different boarding-houses, and told me they were to go to Halifax. I took the Cunard steamer for Halifax, where I arrived on the 9th. I met Mr. Carstensen at Halifax; we took a cab and drove out to Melville Island. I saw in the barracks most of the people I sent from here; they were equipped and were being drilled. The officer received me with great kindness, and Mr. Van Essen went with me to the city. At supper, Mr. Van Essen was called out, and did not return. I met Mr. Howe, on landing from the steamer; he greeted me very kindly, but said he had no time to see me, and stepped on board the steamer for England—that was the same steamer I arrived in. The next morning, the 10th, I went again to Melville Island, to see Mr. Van Essen, who had promised to introduce me to Sir Gaspard le Marchant. I was received by a man calling himself Major Weis, who told me there were strict orders not to allow me to come to the island again. I asked him to show me the order, for unless I saw it I would not leave the island if he were twenty times Major. He had no written order, and I went on the island. He sent immediately to the Governor for instructions; in the meantime, he ordered the people and officers not to speak with me. In about half an hour the order arrived, and he presented it to me. I told him it was the order of the Governor of the Province; that I would like to see the order of the Military Governor, for without it I would not leave. He sent again to the fort, and the commanding English Colonel of the forces came himself, and told me that no strangers were permitted to come on to the island. I left in company with the Colonel, in his calache.

The barracks at Melville Island, where the soldiers are kept, are a parcel of wooden sheds, scarcely equal to those in which a good Pennsylvania farmer keeps his cattle. I then went up to Sir Gaspard le Marchant, introduced myself,

and told him what I wished. In the beginning he did not desire to have any connection with me at all, but after I had presented to him in strong language the manner in which I had been treated in Philadelphia, as well as in Halifax, he replied, it was not his fault, but Mr. Howe's. He also said that Mr. Howe had used 120,000 dollars in the recruiting business, and inasmuch as he had rendered no account of it yet, he could not tell how my account stood; that in the meantime I should give him a written statement of what I wished, and he would answer me the next day. I gave him the statement, and the next day I received the letter marked L. (C. F. H.) (This letter is already published, and will be found on page 68, dated June 11th, 1855.) I left Halifax the next morning. At the time he delivered the letter, which was handed to me by Mr. Wilkins, in the presence of Sir Gaspard, he told me that "when you return to New York, go to Mr. Stanley, and that he, Mr. Stanley, will then be able to settle with you." When I arrived at Windsor, I wrote a letter to the Governor, Sir Gaspard le Marchant, in which I repeated all that I had said to him the day before, and told him that when I came to New York, if Mr. Stanley had no orders from him, I would publicly call on Mr. Crampton, Mr. Mathew, &c., and make them account for the inducements held out to me, and through which I was brought into this difficulty. I arrived in New York two days afterwards, from Windsor, and called on Mr. Stanley, but, as I had anticipated, he had no orders. Mr. Stanley begged me to be quiet, and not to make any noise, and assured me that I should be munificently compensated for my services for the Foreign Legion. I went to Howard's Hotel, where I remained some time. While there, an old gentleman came in, asking me to abandon the English side. I said, "I can't do it."

I returned to Philadelphia about the 15th of June, and waited until the 17th for a letter which Mr. Stanley had promised to write. I did not receive it, and, therefore, wrote him a letter, in which I requested him to pay for my services—I meant the money the Government owed me, and which he promised to obtain. I received in reply the letter marked M. (C. F. H.) hereunto annexed. This letter is already published, and will be found at top of page 69.

Previously to my going to Halifax on the 23rd of May, I wrote a letter to Mr. Crampton, in which I stated that I had received information that he (Mr. Crampton) and his Secretaries, all together, had said that I was in correspondence with the Russian Government for the purpose of betraying their secrets, and if they did not apologize for making this charge, I would call upon him and the Russian Minister to make a statement. To this letter I received the letter hereunto annexed, marked N. (C. F. H.) This letter is already published, and will be found at foot of page 68.)

All that I did in procuring and sending men to Halifax for the Foreign Legion, was done by the advice and recommendation of Mr. Crampton, Mr. Howe, and Mr. Mathew. I was employed by Mr. Howe, and acted as his agent, with the knowledge and approbation of Mr. Crampton and Mr. Mathew. Mr. Mathew knew of both the expeditions I sent. He approved and encouraged me in sending them away. He encouraged me by his advice and counsel, and in giving me money to send them away.

The statement which I now have made I have made voluntarily, without any inducement other than the regret I feel in having violated the laws of this country, and the desire which now prompts me to make every reparation in my power, by confessing my own fault and exposing those who have induced me to enter into this illegal business. I make this statement in the hope that it may have its proper influence upon the Government of the United States, in relation to any future action in the prosecution against me. I have made it, however, without any promise as to such future action, placing myself entirely upon the clemency of those who have the power to act in the premises.

HENRY HERTZ.

In testimony of all which I hereunto subscribe my name and affix my seal, this eleventh day of October, A.D. 1855, in the eightieth year of the Independence of the said United States.

CHARLES F. HEAZLITT,
United States' Commissioner.

No. 45.

Mr. Marcy to Mr. Buchanan.—(Communicated to the Earl of Clarendon by Mr. Buchanan, November 1.)

*Department of State,
Washington, October 13, 1855.*

Sir,

THE copy of Lord Clarendon's note of the 27th ultimo, which you transmitted to the Department with your despatch No. 93, has been received. I have laid it before the President, and am directed to make the following reply :

The case presented to Her Majesty's Britannic Majesty's Government in my note to Mr. Crampton, contained a distinct charge, that British officers and agents had infringed our laws enacted for the maintenance of our duties of neutrality to friendly Powers, and that some of these officers and agents in the employment of their Government within the United States, and others, residents in the neighbouring British provinces, had also violated our sovereign territorial rights by being engaged in recruiting for the British army within our territories. The mode by which this recruiting had been carried on, and the connection of these with it, are clearly stated.

A scheme for that purpose had been arranged by British officers ; agents had been employed by them to open rendezvous in our principal cities ; numerous engagements had been made with recruits ; money had been paid to them, and liberal promises of other considerations offered as an inducement for entering into the British service ; and they had been taken out of the United States by means furnished by persons in the employment of the British Government.

It was also stated that the evidence establishing these allegations against the officers and agents of the British Government, was of such a character that this Government could not reasonably doubt its accuracy.

The President has given to the reply of Lord Clarendon, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, to the case thus presented by this Government, the full consideration it is entitled to on account of the high source from which it emanates, and he regrets to be obliged to adopt the conclusion that it is not satisfactory.

This Government had a right to look for something more in that reply than an expectation on the part of Her Majesty's Government " that their assurance should be received that as they have enjoined on all Her Majesty's servants a strict observance of the laws of the United States, so they have no reason to believe that any of Her Majesty's servants, or any agents duly authorized by those servants, have disregarded those injunctions in respect to the matters which form the subject of this (Lord Clarendon's) note."

This is a very laconic, but certainly a very unsatisfactory answer to the demand of redress by this Government for a violation of its laws, and an affront to the sovereign rights of this country.

This conclusion adopted by Lord Clarendon is preceded by a general objection to all the evidence by which the charges against the British officers and agents are sustained.

Lord Clarendon declares that the " extraordinary " measures adopted to obtain evidence against Her Majesty's servants or their agents, though " sometimes resorted to under despotic institutions, are disdained by all free and enlightened Governments." This serious imputation is accompanied with no specification or even vague allusion to the condemned measures, nor is this Government favoured by his Lordship with any information to guide conjecture as to his meaning.

The only reply which can be made to an allegation so exceedingly indefinite, is that this Government has authorized or used no other but ordinary and legitimate modes of obtaining evidence against British officers, nor has it any reason to believe or suspect that any persons, with or without its countenance, have adopted any measures whatever for obtaining such evidence which would not find abundant sanction in the established practice of the administration of penal law in Great Britain.

It is a significant fact that on the trials in Philadelphia and New York, in which the accused were convicted for being engaged in carrying out the scheme

of recruitments within the United States, no such objection as that by which Lord Clarendon would fain set aside all the evidence as worthless, was interposed or made to appear, though some of Her Majesty's officers were present at these trials, and took a deep interest in the defence of the criminals, and were directly implicated by the proofs as participants in the offence.

Repelling this charge of imitating "despotic institutions" and doing what is "disdained by all free and enlightened Governments," it is proper to remark, that if it were sustainable, it would not warrant the conclusion which Lord Clarendon has deduced from it, which is, that the evidence "will fail to establish any well founded charge against Her Majesty's Government." It is far from being certain that the measures for obtaining the evidence, even if they had been extraordinary and exceptionable, would invalidate it, for it might still be of such a character as to carry conviction to the mind of the truth of the allegations.

Should Her Britannic Majesty's Government see fit to disclose any specific objection to the mode by which the evidence has been obtained, or attempt in any other way to impeach it, this Government will then feel called on to vindicate its course and show its ability to sustain its charge by evidence to which no just exception can be taken. Neither the premises on which Lord Clarendon founds his argument for setting aside the testimony against the implicated British officers, nor the inference he deduces from them, can be admitted by this Government.

Lord Clarendon must, I think, intend to be understood as impeaching our neutrality in the present war, though there appears to be some indistinctness in his language.

In commenting upon so grave a charge, coming from so respectable an authority, it is but fair to quote his own words:

"The United States profess neutrality in the present war between the Western Powers and Russia; but have no acts been done within the United States by citizens thereof, which accord little with the spirit of neutrality? Have not arms, and ammunition, and warlike stores of various kinds been sent in large quantities from the United States for the service of Russia?"

It is certainly a novel doctrine of international law, that traffic by citizens or subjects of a neutral Power with belligerents, though it should be in arms, ammunition and warlike stores, compromises the neutrality of that Power. That the enterprize of individuals, citizens of the United States, may have led them in some instances, and to a limited extent, to trade with Russia in some of the specified articles, is not denied, nor is it necessary that it should be for the purpose of vindicating this Government from the charge of having disregarded the duties of neutrality in the present war.

Lord Clarendon is most respectfully asked to look on the other side of the case. Have the citizens of the United States had no traffic with Great Britain during the present war, in arms, ammunition, and warlike stores? It must be known to his Lordship—for it is a matter of notoriety—that our citizens, in their character as individuals, have rendered substantial aid to both England and France in the prosecution of hostilities against Russia. Though Lord Clarendon may have momentarily forgotten, he will readily call to mind the fact, that a large number of our merchant ships have been engaged, from the commencement of the war down to this time, in transporting troops and munitions of war for Great Britain, from British ports, either in the United Kingdom or in the Mediterranean, to the Crimea, to say nothing of the numerous American merchant vessels employed in conveying troops and munitions of war from the ports of France.

Private manufacturing establishments in the United States have been resorted to for powder, arms, and warlike stores, for the use of the allies; and immense quantities of provisions have been furnished to supply their armies in the Crimea.

In the face of these facts, open and known to all the world, it certainly was expected that the British Government would have alluded to the very limited traffic which some of our citizens may have had with Russia, as sustaining a solemn charge against this Government for violating neutral obligation towards the allies. Russia may have shared scantily, but the allies have undoubtedly partaken largely, in benefits derived from the capital, the industry, and the inventive genius of American citizens in the progress of the war; but as this

Government has had no connection with these proceedings, neither belligerent has any just ground of complaint against it.

Lord Clarendon further asks, "Have not plots been openly avowed, and conspiracies entered into, without disguise or hindrance, in various parts of the Union to take advantage of the war in which Great Britain is engaged, and to seize the opportunity for promoting insurrection in Her Majesty's dominions, and the invasion thereof by an armed force proceeding from the United States?"

This Government replies that it has no knowledge or belief whatever of the existence of any such plots or conspiracies. It has only seen it stated in English newspapers that a few persons from Ireland had congregated together at Boston, or in its vicinity; adopted some resolutions in relation to the condition of their countrymen at home; and made some suggestions in relation to what they regarded as an amelioration of the condition of the land of their birth. It was not here considered a noticeable affair, and only became known to any member of this Government by the comments upon it which appeared in the British press. On inquiry it is ascertained that a very few individuals were present at that meeting, and it was probably the result of the British scheme of recruiting, which was at that time vigorously prosecuted in Boston. It was a proceeding no more noticeable, and far less harmful, than the daily machinations of foreign fugitives collected in London against the Governments of their native countries. Those who assembled in Boston will probably rejoice at having effected much more than they anticipated when they shall learn that their proceedings have attracted the attention of Her Britannic Majesty's Government, and been regarded as a disturbing movement against the British dominions.

If the British Government believe that plots and conspiracies are really on foot in any part of the United States, and will furnish any clue by which they can be detected, it may be assumed that this Government will act promptly and efficiently in bringing them to light and punishing the offenders, and it will not consider itself in any way relieved from doing its whole duty in this respect by what has taken place here in reference to recruitments for the British army.

This Government is not less mindful than that of Great Britain or France, of the many ties and sympathies which connect the people of the United States with those two powerful nations; and it will go as far and do as much as either to strengthen and cherish those sentiments, in the hope of making them available for all legitimate purposes; to maintain friendly relations, and increase social and commercial intercourse; but Great Britain ought not to indulge the expectation that those sentiments can be permitted to draw the United States over the line which marks their duty to themselves, as well as to the belligerents and all friendly Powers.

It would be an inexcusable perversion of such sentiments if they were permitted to induce this Government to pass unnoticed the violation of its laws, or to throw open its territories to the recruiting officers of any foreign Power.

The expectation that the United States would yield to such pretensions, or forbear to claim redress when such an affront to their sovereign rights had been offered, could only be founded on a belief that they were prepared to abandon their position of strict neutrality, and run the hazard of plunging into the struggle which now convulses Europe.

Supported as this Government is in the charge made against British officers and agents, of having infringed our laws, and violated our sovereign territorial rights, and being able to sustain that charge by competent proof, the President would fail, in due respect for the national character of the United States, and in his duty to maintain it, if he did not decline to accept as a satisfaction for the wrongs complained, Lord Clarendon's assurance that these officials were enjoined a strict observance of our laws, and that he does not believe that any of them have disregarded the injunction.

This Government believes, and has abundant proof to warrant its belief, that Her Britannic Majesty's officers and agents have transgressed our laws, and disregarded our rights, and that its solemn duty requires that it should vindicate both by insisting upon a proper satisfaction. The President indulges the hope that this demand for redress will be deemed reasonable and be acceded to by Her Britannic Majesty's Government.

This Government has indicated the satisfaction which it believes it has a right to claim from the British Government in my despatch to you of the 15th of July last.

The President directs you to urge upon Her Britannic Majesty's Government the views contained in that despatch, and to read this to Lord Clarendon, and deliver a copy if he should desire it.

I am, &c.
(Signed) W. L. MARCY.

No. 46.

Mr. Marcy to Mr. Buchanan.—(Communicated to the Earl of Clarendon by Mr. Buchanan, November 2.)

*Department of State,
Washington, July 15, 1855.*

Sir,

SINCE my despatch of the 9th ultimo, in relation to recruiting soldiers within the United States for the British army, information has been received here that the business is not only continued but prosecuted with increased vigour and success, and there is no doubt that it is carried on by the efficient aid of the officers and agents of the British Government. It was expected after the attention of Her Britannic Majesty's Minister near this Government was directed to this subject, and after he had presented Lord Clarendon's note of the 12th of April last to this Department, and given assurances that steps had been taken to arrest the illegal procedure, that we should have witnessed no further participation by British functionaries in the attempt to invade our sovereignty and defy our laws.

Something more than the disavowal then made to this Department was looked for from the British Government, which had, as it appears by Lord Clarendon's note, countenanced this aggression upon our rights. It was reasonably expected that Her Britannic Majesty's Government would have considered it due to the friendly relations between the two countries not merely to reprove its officers engaged in this scheme of raising recruits within our jurisdiction, but promptly to retrace the steps which had been taken and at once to arrest the illegal proceedings; but this Government is not aware that any such course has been taken: on the contrary, it has reason to believe that the machinery first put in operation is still at work, and is still managed by British functionaries. The notification of the Governor of Nova Scotia (a copy of which accompanied my despatch of the 9th ultimo) is unrevoked. Agents in our principal cities are now busily engaged in making contracts with persons to go into the British Provinces and there to complete their enrolment in the British army; liberal advances still continue to be made as an inducement for entering into such engagements, and a free passage to the British Provinces is provided for them. The facts that these persons receive compensation for their engagements, are taken to the Provinces free of charge, and there treated as under obligation to perfect their enlistment in the British army, show that what has been done in the United States was set on foot by the British officers in the Provinces, and that this scheme was not abandoned after the presentation of Lord Clarendon's note of the 12th of April, 1855, but is continued down to the present time, and is prosecuted with more vigour and effect than at any previous period.

If an apology, grounded upon an alleged ignorance of our laws, could be offered for introducing this scheme for recruiting the British army by men drawn from the United States, that excuse could not be available after the provisions of these laws were first made known to those engaged in the scheme.

Since that time many months have elapsed, and the British officers, with a full knowledge of the illegality of the procedure and of its offensive character to the Government and people of the United States as an open contempt of their sovereign rights, persist in carrying on this obnoxious scheme without any open disapproval by the Home Government or any attempt to arrest it.

This persistence of British officers residents here or in the Provinces, in countenancing and aiding, unrestrained by their Government and apparently with its approval, to carry out this device of drawing recruits for the British army from the United States, gives grave importance to the subject, and calls, as the President believes, for some decisive reparation.

It is presumed that Her Britannic Majesty's Government will regard it as due to the friendly relations between the two countries, which are alike cherished by both, to explain the course it has pursued in this case; what countenance was given to it in the beginning; and what has been subsequently done to put a stop to it.

Having at an early stage in the proceedings become aware of the illegal conduct of its officials in this matter, and the objectionable light in which that conduct was viewed by this Government, it is not to be supposed that proper measures were not taken by Her Britannic Majesty's Government to suppress all further attempts to carry out this scheme of enlistment, and to punish those who persevered in it. It would afford satisfaction to be informed what measures were adopted by Her Majesty's Government to arrest the mischief; but whatever they were it is evident they have proved ineffectual, for the ground of complaint still exist, and the practice is continued by the agency of persons beyond the limits of the United States as well as those within them, under circumstances which render a resort to criminal prosecutions inadequate to suppress it.

The President is disposed to believe that Her Majesty's Government has not countenanced the illegal proceedings of its officers and agents since its attention was first directed to the subject, and will consider it alike due to itself and to the United States to disavow their acts, and deal with them in such a manner as their grave offence merits. As recruiting for the British army, in the mode alluded to, is still prosecuted within the United States by officers and agents employed for that purpose, the President instructs you to say to Her Majesty's Government that he expects it will take prompt and effective measures to arrest their proceedings, and to discharge from service those persons now in it who were enlisted within the United States, or who left the United States under contracts made here to enter and serve as soldiers in the British army.

* * * * *

The President instructs you to present the views contained in this despatch to Her Britannic Majesty's Government.

I am, &c.
(Signed) W. L. MARCY.

No. 47.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, November 2, 1855.

I TRANSMIT to you herewith, for your information, a copy of a despatch* from Mr. Marcy to Mr. Buchanan, and communicated to me yesterday by the latter, in reply to my letter to Mr. Buchanan of the 27th of September; and I have to inform you that I had no cognizance of the despatch of the 15th of July, which is alluded to in Mr. Marcy's despatch, but Mr. Buchanan read it to me and said he would send me a copy of it.

I am, &c.
(Signed) CLARENDON.

P.S.—Since writing the above Mr. Buchanan has communicated to me a copy of Mr. Marcy's previous despatch to Mr. Buchanan of July 15th, a copy of which I herewith inclose.†

No. 48.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, November 2, 1855.

I HAVE received your despatch of the 15th ultimo, and its inclosures, respecting the proceedings which have been taken in the United States' District Court at Philadelphia, in the case of Henry Hertz, who has been

pronounced guilty of having violated the Neutrality Laws by enlisting recruits for the British army; and I have to state to you that I approve of the answer which you returned to Mr. Consul Mathew's communications to you upon this subject.

I am, &c.
(Signed) CLARENDON.

No. 49.

Mr. Crampton to the Earl of Clarendon.—(Received November 5.)

(Extract.)

Washington, October 21, 1855.

I HAVE the honour to inclose the copy of a letter which has been addressed from Oswego county, New York, to me, by a person of the name of ———, but who is otherwise unknown to me; stating that he is acquainted with a number of men in the vicinity of that place who, from various motives, have deserted from the British regiments in Canada, but who would now gladly return to Her Majesty's service.

I have thought it right to transmit a copy of this letter to the Governor-General of Canada, with a view to such an inquiry as his Excellency may think fit being made into the truth of the above statement, and to the adoption, should it be well founded, of such measures as the military authorities of the province might think themselves authorized to adopt in the matter.

Inclosure in No. 49.

Mr. ——— to Mr. Crampton.

(Extract.)

Fulton, Oswego County, October 12, 1855.

THERE are in this village and vicinity, and in all the villages and towns adjacent to the Lake (Ontario), a very great number of men who, in a moment of pique, or from some fancied hardship they thought they had to endure, or from dread of punishment, have deserted from Her Majesty's service in Canada. Some of these men I have recently conversed with; and I find that, without exception, their hearts and warmest sympathies are with their native country in her present struggle.

I have not the slightest doubt but that from these men a very effective number might be recruited, having this advantage over any or all others, that they would be almost at once fit for duty, being already well-disciplined soldiers.

I have myself served Her Majesty in the ———, and was "discharged in consequence of having paid the regulated sum of 30*l.*," as it is stated in my discharge.

Should you consider the above suggestion worthy of notice, I would be glad to offer any assistance in my power, and would deem myself happy in my own person to replace, however inadequately, one of those gallant men who fell in that most tremendous charge at Balaklava.

Hoping your Excellency will graciously lay my boldness in addressing you to the score of my love for my native country, and loyalty to my Queen, whose bread I have eaten, I beg, &c.

(Signed) ———.

No. 50.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, November 10, 1855.

MR. BUCHANAN called at this office some days ago, and in a very friendly manner asked me if I should object to inform him why such large reinforcements had been sent to the British squadron on the West India

Station, as he was apprehensive that when the intelligence reached the United States it would cause considerable excitement, and tend to increase the feelings of irritation which already existed in that country.

I told Mr. Buchanan that I had no difficulty in answering his inquiry with perfect frankness, and that I would, in the first place, assure him that there was no intention on the part of Her Majesty's Government to attack or menace the United States, but that, as we had reason to believe that ships were fitting out for Russia in the ports of the United States, and that a great conspiracy was in progress there for the purpose of promoting insurrection in Ireland, as we knew that a United States' ship had lately taken the soundings in the ports of most of the British West India colonies, and that the Commander of that ship had privately made minute inquiries respecting the state of the defences and garrisons in those colonies; and as we had received a note from Mr. Marcy to Mr. Crampton, couched in terms so unfriendly that it appeared to indicate a fixed purpose on the part of the United States' Government to provoke a quarrel between the two countries, Her Majesty's Government had thought it their duty to take measures for the protection of British interests against any attack that might be made upon them, and to be prepared for events which they had done nothing to provoke, and which they would still do their utmost to avert.

In answer to an inquiry of Mr. Buchanan, as to the destination of the ships sent out, I informed him that they would not go near any American port, and I repeated that protection of British interests, and not provocation to the United States, was the object of Her Majesty's Government.

At a subsequent interview which I had with Mr. Buchanan, he appeared to be under some misapprehension as to the number and calibre of the ships that had been ordered to the West India Station, and I informed him that four ships had only been sent, three of which were gone to Bermuda and one to Jamaica, from which stations they were not to move without further instructions, and that no more were going or had been ordered to go.

I likewise stated to Mr. Buchanan that Her Majesty's Government had learned with satisfaction that the ship fitting out at New York, and which we had reason to suppose was destined to intercept our Australian trade, was going to China; and that the United States' Government had, in reply to your application, given an assurance that no infraction of the American law should be permitted on the part of those persons who were contemplating an insurrection in Ireland; and I trusted, therefore, that not much time would elapse before the ships in question would be recalled or sent on some other service, as Her Majesty's Government were unwilling to doubt that the difference which had arisen with respect to enlistment would be amicably arranged.

I am, &c.
(Signed) CLARENDON.

No. 51.

Mr. Crampton to the Earl of Clarendon.—(Received November 12.)

(Extract.)

Washington, October 29, 1855.

WITH reference to my despatch of the 16th July last, I have the honour to inclose the copy of a despatch which I have received from Her Majesty's Consul at Cincinnati, announcing that a true bill has been found against him on the charge of enlisting men for Her Majesty's service.

Inclosure in No. 51.

Consul Rowcroft to Mr. Crampton.

Sir,

Cincinnati, October 23, 1855.

I LOSE no time in informing your Excellency that a true bill has been found against me, jointly with Mc Kay, Turnbull, and Hamilton, on the charge of enlisting men at Cincinnati for the service of Her Majesty.

I have, &c.

(Signed) CHARLES ROWCROFT.

No. 52.

Consul Rowcroft to the Earl of Clarendon.—(Received November 13.)

(Extract.)

Cincinnati, October 24, 1855.

YESTERDAY the Grand Jury found a true bill against me and others, namely, William Hamilton, Robert Mackay, John Turnbull, British subjects, and De Korponay, Hungarian, on the charge of enlisting soldiers in Cincinnati for Her Majesty's service.

The trial cannot come on before the 18th of December, owing to the number of other cases before the Court.

This case (against the British Government really) is continued to be carried on by the Irish party with the utmost virulence; and no pains or bribes are spared to suborn witnesses for the prosecution.

As an instance of the unscrupulous manner in which the case is prosecuted, I will mention that one of the police officers (of the name of Russell) who arrested me in my house in July, and who was one of the witnesses in the preliminary examination in July, was smuggled into the Grand Jury—to form one of the Grand Jury—to decide on the presentment. I will add that the indictment charges me and the others with having enlisted one Frederick Poschner. This Poschner was one of those arrested and held to bail in July: he has since been induced to become a witness for the State.

No. 53.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, November 16, 1855.

IN my despatch to you of the 2nd instant, I inclosed the copy of a despatch from Mr. Marcy, which had been read to me and placed in my hands by Mr. Buchanan.

Before I proceed to offer any remarks upon this despatch, it will be proper to state that when it was read to me by Mr. Buchanan, I had no cognizance of Mr. Marcy's despatch of the 15th of July, to which it alludes, and of which a copy was also transmitted to you; and upon my observing this to Mr. Buchanan, he said he had not thought it necessary to communicate it to me, as before it had reached him he had received my note of the 16th July, which he thought would finally settle the question that had arisen between the two Governments. Her Majesty's Government shared the opinion of Mr. Buchanan. They did not doubt that the frank expression of their regret for any violation of the United States' law which, contrary to their instructions, might have taken place, and of their determination to remove all cause for further complaint, by putting an end to all proceedings for enlistment, would have satisfactorily and honourably terminated a difference between two Governments whose duty it was to maintain the friendly relations which have hitherto, and to their great reciprocal advantage, happily subsisted between Great Britain and the United States. But as this expectation has been disappointed, and as a spirit altogether at variance with it has been manifested by the Government of the United States, Her Majesty's Government, while they fully appreciate the friendly motives

which actuated Mr. Buchanan, are now disposed to regret that he withheld the despatch of Mr. Marcy, as it would have called their attention to proceedings against which the United States' Government thought itself called upon to remonstrate, and which would at once have been inquired into, as Her Majesty's Government, in a matter which concerned the law of the United States, were scrupulously desirous that no just cause for complaint should arise.

This despatch, however, of which Mr. Buchanan has given me a copy, together with Mr. Marcy's despatch of the 13th of October, have now been considered with all the attention that is due to them; and, in conveying to you the opinion of Her Majesty's Government, I shall endeavour to exclude from discussion the subjects which are foreign to the question immediately at issue, and which might lead to irritation; and this course will be the more proper, as Her Majesty's Government observe with satisfaction that Mr. Marcy's note of the 13th October is not framed in the tone of hostility which characterized his note of the 5th September, to you.

It appears that two distinct charges are made against the officers and agents of Her Majesty's Government:—

First. That they have, within the United States' territory, infringed the United States' law; and

Secondly. That they have violated the sovereign territorial rights of the United States by being engaged in "recruiting" for the British army within the United States' territory.

Now with respect to both these charges, I have to observe that the information possessed by Her Majesty's Government is imperfect, and that none of a definite character has been supplied by the despatches of Mr. Marcy, inasmuch as no individual British officer is named, and no particular fact, or time, or place is stated: and it is therefore impossible at present to know either who is accused by Mr. Marcy, or what is the charge he makes, or what is the evidence on which he intends to rely.

Her Majesty's Government have no means of knowing who are the persons really indicated by the general words "officers and agents of Her Majesty's Government;" whether such persons as those who have been under trial are the only persons meant to be charged, or, if not, who else is to be included, or what evidence against them is relied upon by the United States' Government.

It is true that you and Her Majesty's Consuls are personally charged in Mr. Marcy's note to you of the 5th of September, but neither you nor they are alluded to in Mr. Marcy's despatch of October 13 to Mr. Buchanan, which might not unreasonably have been expected if it really be the intention of the United States' Government to charge you or them with being "malefactors sheltered from conviction" (to use the official language of the United States' Attorney-General).

They must, therefore, request the United States' Government to make and establish more distinct charges, with proper specification against particular individuals by name; and that Government will, I am confident, not deny the justice and the necessity of giving each person implicated the opportunity of knowing what is alleged against himself, and of dealing with the evidence by which the charge may be supported.

I shall accordingly abstain from offering the remarks which a perusal of the evidence at the recent trials, and the character and conduct of the witnesses, have naturally suggested; nor will I observe upon the temper and spirit in which the officers of the United States' Government have throughout proceeded, and which displayed their desire rather to influence the public mind against Her Majesty's Government, than simply to prove the facts necessary to convict the accused parties; this tone and spirit being the more remarkable when it is remembered that the proceedings complained of had been for some time definitively abandoned out of deference to the United States' Government, and that the question to be determined was the character and complexion of acts done many months previously, under a state of things no longer existing.

With reference to the second charge made by Mr. Marcy, namely, that "of violating the sovereign territorial rights of the United States by recruiting for the British army within their territories," I have to observe that, apart from any municipal legislation in the United States on the subject of foreign enlistment, or in the entire absence of any such legislation, Great Britain, as a

belligerent nation, would commit no violation of "the sovereign territorial rights of the United States," simply by enlisting as soldiers, within British territory, persons who might leave the United States' territory in order so to enlist; the violation alleged is the "recruiting" within the United States; but to assume that there was, in fact, any such recruiting (that is, hiring or retaining by British officers), is to beg the question.

It appears to Her Majesty's Government that, provided only that no actual "recruiting" (that is, enlisting or hiring) takes place within the United States, British officers who, within the United States' territories, might point out the routes which intending recruits should follow, or explain to them the terms upon which they would be accepted, or publish and proclaim such terms, or even defray their travelling expenses, or do similar acts, could not be justly charged with violating such sovereign territorial rights.

It has been legally decided in the United States that the payment of the passage from that country of a man who is desirous to enlist in a foreign port, does not come within the Neutrality Laws of the United States; and that a person may go abroad, provided the enlistment be in a foreign place, not having accepted and exercised a commission.

It would indeed be a violation of territorial right to enlist, and organize, and train men as British soldiers within the United States, and whether or not this has been done by British authority is the question involved in the first of Mr. Marcy's charges; but it is no violation of such right to persuade or to assist men merely to leave the United States' territory, and to go into British territory, in order, when they arrive there, either to be voluntarily enlisted in the British service or not, at their own discretion.

There can be no question that the men who went to Halifax were free, and not compelled to be soldiers on their arrival. Upwards of 100 Irishmen in one body, for instance, if Her Majesty's Government are rightly informed, refused to enlist on arriving there, and said they came in order to work on a railway. They were, therefore, not enlisted, hired, or retained as soldiers in the United States; no attempt was made to enforce against them any such contract or engagement.

Mr. Marcy cites no authority for the position he has assumed in relation to this particular doctrine of the effect of foreign enlistment on sovereign territorial rights; but the practice of nations has been very generally adverse to the doctrine, as proved by the numerous instances in which foreign troops have been, and still are, raised and employed.

It cannot, therefore, be said that Mr. Marcy's doctrine is in accordance with the general practice of nations, and high authority might be quoted directly adverse to any such doctrine as applicable to free countries—"ubi civitas non career est."

But, even admitting the alleged doctrine as to the bearing of the principle of territorial sovereignty, its application must obviously be subject to many limitations in practice. Her Majesty had, for instance, internationally an unquestionable right to recall to her standard displayed upon her own territory those of her own subjects capable of bearing arms, who might be transiently or temporarily resident in a foreign country, and Her Majesty would not thereby incur any risk of violating the territorial sovereignty of such country. Again, in the case of political refugees driven from their own country, an essentially migratory class, owing a merely local and qualified allegiance to the United States, is it to be contended that to induce such persons by any fair means, short of "hiring" or enlisting them, to leave the United States in order to enrol themselves on British territory as volunteers in a war in which many of them feel the strongest and most natural desire to engage, is to violate the territorial sovereignty of the United States?

It is, of course, competent to any nation to enact a municipal law, such as actually exists in many countries, forbidding its subjects to leave its territory, but in such cases "*civitas carcer est*;" and it may be the duty of other countries to abstain from actively assisting the captives to escape from the national prison in order to serve another master; but the Government of the United States has enacted no such law, it justly boasts of its complete freedom in this respect—"civitas non carcer est;" all residents therein, whether foreigners or citizens, are perfectly free to leave its territory without the permission of the Government at their own absolute direction, and to enter the service of any other State when

once within its frontier. To invite them, or to persuade them, to do what is thus lawful, can constitute no violation of the territorial rights which the sovereign power has never claimed or exercised.

It is, moreover, to be observed that in this case no United States' citizens, as far as Her Majesty's Government are aware, were engaged; both those actually enlisted within the British North American Provinces, and those expected, were, to the best of their belief, exclusively foreigners and not citizens of the United States.

Without entering further into a discussion of this peculiar doctrine, I will only remark that at all events it was not proclaimed or insisted upon by the United States, either at the commencement of the war, or when the desire of Her Majesty's Government to raise a Foreign Legion was first published, or when a recruiting station was first opened at Halifax. The United States, therefore, although always and most properly insisting on their right and intentions to punish violations of their municipal law, took no step to proclaim or vindicate the particular doctrine now set forth until a very late period of the discussion, and after the time for giving effect to it had gone by.

The charge of "violation of sovereign territorial rights" cannot, therefore, in the opinion of Her Majesty's Government, be fairly urged as a separate and different charge from that of violation of the municipal law of the United States.

But the municipal law was certainly not violated by the orders, nor, as far as they believe, by the officers of Her Majesty's Government; and both Her Majesty's Government and Her Majesty's Minister at Washington gave reiterated orders to all concerned carefully to abstain from such violation; and if the British Government did not purposely cause the United States' law to be violated, then the territorial rights of the United States (whatever they may be) were not, as has been said, intentionally violated by Great Britain "as a nation," even if it should be shown that the municipal law of the Union was infringed.

Before I conclude this despatch it may be useful to place on record certain facts connected with the question of recruiting in North America, the correctness of which will, I doubt not, be admitted by Mr. Marcy; and I will observe:

1st. That the United States' Government were, from the first, perfectly well aware that Her Majesty's Government were in want of recruits, and were desirous of raising a Foreign Legion.

2ndly. That preparations were making to receive recruits in a British North American Colony for such a Legion.

3rdly. That Her Majesty's Government expected to receive recruits there for such a Legion from the United States, although whilst so doing they were anxious not to violate the United States' law.

4thly. That many British subjects and foreigners in the United States were *bond fide* "volunteers" desirous, from various but natural and powerful motives, to enlist. Numerous offers to raise men within the United States were made, but were consistently and honourably refused by Her Majesty's Minister and Consuls, in order to avoid violating the United States' law.

5thly. That Mr. Marcy was in confidential communication with you on the subject for months without ever, that I am aware of, warning you against attempting anything of the kind, or stating that the United States would resist or resent it apart from any question of municipal law; thus, in effect, acquiescing, and only insisting that the United States' law should be respected.

6thly. That as soon as it became apparent that the United States' Government was adverse to the scheme, and that it might lead to violation of the United States' law, the whole project was abandoned, out of deference to the United States; but this conclusive proof of the good faith and good will of Her Majesty's Government has not been noticed or appreciated by the Government of the United States.

7thly. That the whole question in dispute now turns not on what is doing, or shall or may be done, by Her Majesty's Government, but on what was done many months ago, under a system which is not continuing or about to be revived, and which has been voluntarily and definitively abandoned, in order to satisfy the United States, and to prevent the occurrence of any just ground for complaint.

The foregoing facts and considerations, which demonstrate that no offence

to the United States was offered or contemplated by Her Majesty's Government, may, perhaps, have weight with Mr. Marcy if the matter at issue is to be settled in a manner becoming the Governments of Great Britain and the United States, and with a deep sense of the responsibility which weighs on them to maintain uninterrupted and unshaken the relations of friendship which now exist between the two countries; and Her Majesty's Government, fully reciprocating the feelings of the United States' Government, expressed in Mr. Marcy's despatch, with regard to the many ties and sympathies which connect together the people of the two countries, do not permit themselves to doubt that such further discussions as may take place on this question will be conducted in a spirit of conciliation.

It only remains for me to state that no enlistment in the British service is valid without attestation, and that according to British law a recruit cannot be attested in a foreign country, nor even in the British Colonies, without a specially delegated authority for that purpose. No binding contract could, therefore, be made with any man within the United States; promises might be so made, but any money given to men to enable them to repair to places beyond the United States' territory for the purpose of being enlisted would be advanced at a risk. Nevertheless, if it can be shown that there are persons now in the Foreign Legion who have been enlisted or hired in violation of the United States' law, as well as of the British law, Her Majesty's Government will be prepared to offer them their discharge, and to give them a free passage back to the United States, if they choose to return thither.

You are instructed to read and give a copy of this despatch to Mr. Marcy.

I am, &c.

(Signed) CLARENDON.

No. 54.

Mr. Crampton to the Earl of Clarendon.—(Received December 3.)

(Extract.)

Washington, November 19, 1855.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 2nd instant, inclosing the copy of a despatch dated the 13th ultimo, from Mr. Marcy to Mr. Buchanan, communicated by the latter to your Lordship, and also the copy of a despatch from Mr. Marcy to Mr. Buchanan dated the 15th of July last, subsequently communicated to your Lordship.

Without designing to enter at present into an examination of the various topics treated of in Mr. Marcy's despatch of the 13th October, I would observe that, in regard to two particulars to which he has adverted, Mr. Marcy seems to labour under a somewhat unaccountable misapprehension as to facts which, I should have concluded, could not have been unknown to him.

First, Mr. Marcy observes, in alluding to trials which took place at Philadelphia and New York, of certain persons charged with a violation of the Neutrality Laws, "It is a significant fact that, on the trials in Philadelphia and New York, in which the accused were convicted for being engaged in carrying out the scheme of recruitment within the United States, no such objection as that by which Lord Clarendon would fain set aside all the evidence as worthless, was interposed or made to appear, though some of Her Majesty's officers were present at those trials and took a deep interest in the defence of the criminals, and were directly implicated by the proofs as participants in the offence."

Mr. Marcy, in drawing this deduction from the silence of British officers present at the trials in question, seems not to have been aware of the instructions which were issued by Mr. Cushing, Attorney-General of the United States, to the District Attorney of the United States at Philadelphia, by which all British officers were precluded from interfering in the trials in question. That this circumstance should have escaped Mr. Marcy is most remarkable, from the fact that those instructions were publicly read in Court at Philadelphia, by Mr. Cushing's directions, on the 12th of October, the day previous to that on which Mr. Marcy's

despatch was written. I had the honour of transmitting to your Lordship a copy of the instructions in question in my despatch of October 15th.* The passage referring to the attempt of any British officer to interfere in the trials is in the following words :—

“In these circumstances, it is deemed highly necessary that the British Consul at Philadelphia, or any other officer of the British Government, shall not be suffered to interfere in the trials, as he attempted to do on a previous occasion; that no letter of his be read except in the due form of evidence; and that if he have anything to say he shall be put on the stand by the defence, in order that he may be fully cross-examined by the prosecution.

“It is clear that he has no right, by any rule of public law, or of international comity, to be heard in the case by the Court otherwise than as a witness, whether enforced or volunteer.

“I have, &c.
(Signed) “C. CUSHING.”

The other statement in Mr. Marcy's despatch, to which I would draw your Lordship's attention, has reference to the plots for exciting rebellion in Ireland, to which I have had the honour of calling your Lordship's attention. Mr. Marcy says—

“This (the United States') Government replies that it has no knowledge or belief whatever of the existence of any such plots or conspiracies. It has only seen it stated in English newspapers that a few persons from Ireland have congregated together at Boston or in its vicinity, and had adopted resolutions in relation to the condition of their countrymen at home, and made some suggestions in relation to what they regarded as an amelioration of the condition of the land of their birth. It was not here considered a noticeable affair, and only became known to any member of this Government by the comments upon it which appeared in the British press,” &c.

With regard to this statement, I have in the first place to observe, that full and detailed reports of the public meetings of the Irish population in Boston and Cincinnati, appeared in the American newspapers, viz., among others, in the “New York Herald” of August 27, and in the “Cincinnati Daily Columbian.”

Mr. Marcy's opinion as to what constitutes suggestions for the amelioration of Ireland may perhaps differ from that of Her Majesty's Government, but the suggestions made at those public meetings, fully reported by the American press, were for the excitement of a rebellion in Ireland to be aided by an armed invasion from the United States.

I regret to perceive also that my own idea of what constitutes a “noticeable affair” differs so widely from that of Mr. Marcy and the American Cabinet; but I certainly thought I should have failed in my duty had I neglected to make your Lordship acquainted with the proceedings of the Irish meetings in question.

What, however, renders the want of information under which Mr. Marcy evidently laboured when he made the statement in question, more extraordinary, is the fact that on the day he wrote his despatch, viz., the 13th of October, I had addressed to him an official note on the subject, calling his attention not only to the reports of the proceedings in question, published in the American newspapers, but to the communications I had received from Her Majesty's Consuls at Boston, Cincinnati, and New York, on the subject, and to the handbill circulated secretly among the Irish societies, of which I inclosed to Mr. Marcy a printed copy.

I can only suppose that by some accident Mr. Marcy had not seen my note of the 13th when he wrote his despatch on that day, yet he must have been in possession of that note for two days before his despatches left Washington for England, viz., the 16th instant.

* See Report of Trial, *United States v. Hertz*, p. 107.

No. 55.

Mr. Crampton to the Earl of Clarendon.—(Received December 10.)

(Extract.)

Washington, November 27, 1855.

IN compliance with your desire I proceed to make a statement of all that to my knowledge has been done here in regard to obtaining recruits from the United States ; or, I should rather say, in regard to giving those who voluntarily offered their services the information and assistance which was necessary to enable them to join the British army without the laws of the United States being thereby infringed.

In November last you mentioned to me that Mr. Consul Mathew had reported that a good many persons, British subjects, had expressed to him their wish to enlist in our army and navy, and to go the East ; and as the want of men was then much felt, particularly for the army, you directed me to give my immediate and best attention to the matter, and make such inquiry as I could as to whether any such desire existed.

This inquiry I immediately instituted by addressing to our Consuls in the principal cities of the United States a confidential circular, by which they were instructed to ascertain and report to me whether the desire to join Her Majesty's service really existed, and to what extent.

I inculcated upon Her Majesty's Consuls the utmost caution in conducting this inquiry, stating to them distinctly, that "enlistment and enrolment of citizens of the United States, or of residents therein, for the service of a foreign Power with which the United States is at peace, would be clearly in contravention with the provisions of the United States' Neutrality Laws ; and adding, that any measures which might have even the appearance of an infraction of those laws by the Agents of Her Majesty's Government would be highly objectionable."

The answers which were returned by Her Majesty's Consuls to my circular letter seemed strongly to confirm the fact that the desire to enlist in the British service did exist to a very considerable extent, and more particularly at New York, Philadelphia, and New Orleans.

During the same period numerous offers and proposals to enlist in the British service were received by me, both written and verbal, and I had therefore every reason for believing that there actually were great numbers of persons in the United States, who from various motives desired to join the British army.

I may here remark that all the persons I allude to voluntarily came forward, and offered to do so without solicitation on my part, or on that of any of Her Majesty's Agents, and that in no single instance, either at that time or since, did I invite any person whatever to enter the British service. I can safely say that I never made a single application or even broached the subject to anybody : in every case the applications were made to me.

It was but fair to conclude, therefore, that were authentic information given of the willingness of Her Majesty's Government to avail themselves of the services of such persons, and in regard to the terms which, under the Foreign Enlistment Act, Her Majesty's Government were authorized to offer to persons so enlisting, a great addition to the Foreign Legion might be effected without any infraction whatever of the laws of the United States.

The obstacle to our immediately availing ourselves of these offers was that I was not then acquainted with the terms on which recruits would be received, and with the nature of any arrangements which might have been made in England or in the colonies for their enrolment.

My answers, both verbal and written, to persons making inquiries of me in regard to those points were therefore necessarily of a general nature, stating, without declining the offers made, that I was at that time unable to inform the applicants of the measures which Her Majesty's Government intended to take upon the subject.

Among the persons who were continually addressing me letters,

seeking interviews with me, and complaining that they and their friends and countrymen were kept in a state of suspense as well as in distress, were Messrs. Hertz and Strobel, who have since been made use of by the American Government to substantiate against me and Her Majesty's Consular Agents a charge of having violated the Neutrality Laws of the United States by hiring and retaining them, and others through their agency, to enter the British service.

I took no further steps in the matter until the 3rd of March, when I received your despatch of the 16th of February.

By this I was informed that an instruction had been addressed by the Colonial Secretary to Sir Gaspard le Marchant, with respect to foreigners and British subjects who desired to enlist in the British army, and I was instructed to put myself, without loss of time, into communication with Sir Gaspard le Marchant on the subject.

The despatch inclosed the copy of the instruction to Sir Gaspard, to the effect that he was to ascertain and report to Her Majesty's Government whether Halifax could be conveniently made a rendezvous for persons in the United States who desired to enlist, and he was directed, on his part, to place himself in immediate communication with this Legation, with a view of ascertaining the means which might be employed for bringing the volunteers from the United States to Halifax; and in regard to other points which were necessary to be taken into consideration.

Not trusting to my own judgment as to the exact practical bearing which the Neutrality Laws of the United States might have upon the subject, I requested an eminent American lawyer, in whose judgment and professional ability I felt entire confidence, to draw up for me an "opinion" on the subject; and a copy of this opinion I thought it right to transmit to Her Majesty's Consuls in the chief cities of the Union, and a copy of it accompanied my despatch to your Lordship of the 13th of March.

Some individuals, however, totally misapprehending the bearing of the Act of Congress, or disregarding it in order to secure an immediate profit to themselves, issued handbills, opened what might be considered recruiting offices, and made publications in the newspapers, all which acts appeared to me to be contrary to law. The moment they were brought to my knowledge, I expressed in the most unequivocal terms to Her Majesty's Consuls at New York and Philadelphia my disapproval of any such proceedings.

On the 20th March, Mr. Consul Barclay addressed me a letter inclosing some of these handbills signed by one Angus McDonald, and stated that McDonald had alleged that he had the authority of the British Government for his proceedings.

I immediately addressed to Mr. Barclay a letter dated the 22nd of March, directing him at once to contradict any such assertion, and to state to McDonald that I considered he had rendered himself amenable to punishment for a violation of the laws of the United States.

In order to avoid the possibility of misconception on the part of the Government of the United States in respect to my views of the proceedings in question, I took these handbills to Mr. Marcy on the same day I received them (viz., March 22), showed them to him, and expressed my disapproval of their having been issued. I also placed my letter to Mr. Consul Barclay, conveying that disapproval to him, in Mr. Marcy's hands.

He read it attentively, and expressed himself satisfied with the view I had taken of the matter, adding that he had already given orders for the prosecution of every one of the persons who had violated the law. I remarked to Mr. Marcy that numerous applications had been made to me by persons expressing a wish to join the British army, and that my answer to them had invariably been that I could not enlist them or hire them here without violating the law, and that consequently, if they wished to enter the British service, they must go into British territory for that purpose.

Mr. Marcy rejoined, that any number of persons who desired it might

leave the United States and get enlisted in the British or any other army, but repeated, that any person attempting to violate the Neutrality Laws would be prosecuted and, if convicted, punished.

This terminated the conversation, and it is the only conversation with Mr. Marcy that I had upon the subject until about the 24th of August last, when, in consequence of your correspondence with Mr. Buchanan, I considered the matter to be at an end. I conversed with Mr. Marcy frequently on various other matters in the interval, but he never again alluded to the subject of the recruitment. He most certainly never put forward the views of the subject expressed in his note to me of the 5th of September, nor was it until I received that note that I was acquainted with them. The objection to obtaining recruits from the United States, put forward by Mr. Marcy previously to his note of the 5th of September, was the Neutrality Law, and the Neutrality Law alone. Within the limits of that Law I determined to keep, and I never omitted an opportunity of explaining its provisions and inculcating a strict observance of them upon every person connected with the matter. I was therefore not prepared for the charge of having violated international obligations, infringed the sovereign territorial rights of the United States, and committed acts disrespectful to the Government to which I am accredited, and still less prepared to hear it asserted that the strictest conformity with the law had aggravated, nay doubled, those offences.

On the 27th of April I learned that several of the Germans who had gone to Halifax from New York, Boston, and Philadelphia, had returned to those cities for the purpose of making known to their countrymen (numbers of whom they represented to be eager to enter the British service) the terms and conditions on which this could be done.

From what I heard in regard to the proceedings of these people, who were, as was to be expected, very imperfectly acquainted with the provisions of the Neutrality Laws, I judged that it was highly probable that they would render themselves amenable to penalties, and that it would be inferred that their acts were ordered or authorized by the British Colonial authorities. It seemed to me that a great deal of confusion and misunderstanding prevailed upon the subject of enlistment in the Foreign Legion, and that many of the persons directly and indirectly engaged in the matter were rendering themselves—no doubt without any intention of so doing—liable to the charge of infringing the laws of this country, and at the same of utterly defeating the object they themselves had in view; for it appeared to me that whatever could be effected towards augmenting the Foreign Legion from this country; could be effected legally, and, on the other hand, that any attempt to set the laws of the United States at defiance, or to evade them, would not only be in contravention with the reiterated directions of Her Majesty's Government, but would render a total failure of the object in view inevitable.

Actuated by these considerations, and finding that communication by letter with the provincial authorities was slow and ineffectual, I determined to proceed to Halifax myself, with a view of putting a stop to any proceedings by persons connected with the Foreign Legion, which had been begun to be collected there, which might be in contravention with the United States.

Before leaving Washington for this purpose, I directed Mr. Lumley, in case Mr. Marcy should, during my absence, speak to him on the subject of the recruitment, to state that the above was my object, and to read to Mr. Marcy your Lordship's despatch of April 12.

This Mr. Lumley did a few days after my departure for the Colonies. At the conversation which took place between Mr. Marcy and Mr. Lumley on that occasion, the former used the very same language he had used to me at my conversation with him on the 22nd of March, viz., that any number of people might, if they felt so disposed, voluntarily leave the United States for the purpose of enlisting in any foreign service, but that any recruitment, enlistment, or hiring within the jurisdiction of this country, would render those who were engaged in it liable to punishment.

I accordingly left Washington on the 2nd of May, and finding that I had sufficient time for so doing before the Cunard packet left Boston on the 9th of that month, went up to Quebec in the first instance, and having had some conversation with Sir E. Head on this subject, I returned to Boston and embarked there for Halifax on the 9th of May.

I arrived at Halifax on the 11th day of that month. It was here that Strobel, who had already brought with him some men from New York and Boston, and who appeared to be well acquainted with the condition and desires of his own countrymen in the United States, positively asserted that he knew many hundreds of Germans in the cities and country in the vicinity of the Great Lakes, who only required to be informed of where they could be received in Canada, and to be supplied with the small sum which would cover their travelling expenses, immediately to present themselves on British territory for enrolment in Her Majesty's service.

This plan, seeming to me to present a better prospect of success, and at the same time to be unobjectionable as regarded the laws of the United States, was adopted, but so anxious was I that no misunderstanding should exist or mistake be committed in this respect by the persons who were to carry it out, that I drew up for their use the memorandum which has since been produced by Strobel, as "State's evidence" on the trial of Hertz at Philadelphia, as proving that I had authorized him or others to violate the Neutrality Laws; and I would take the opportunity of saying that every word he has said in order to convey the impression that I directed him or anybody else to act otherwise than is inculcated in that Memorandum is utterly false. Upon everybody I spoke to at Halifax I impressed the necessity of a strict observance of the Neutrality Laws of the United States, as absolutely necessary in obedience to the orders of Her Majesty's Government, as well as evidently essential to any success in increasing the numbers of the Foreign Legion. I then left Halifax for Quebec, and passing through Montreal, I proceeded to New York, where I arrived on the 1st of June.

I returned to Washington on the 3rd of June.

I received on the 2nd August your despatch of July 19th, inclosing copies of Mr. Buchanan's note to you, on the subject of the recruitment, of the 16th July, and your reply of the 18th of that month.

As in that reply you make the engagement that all recruitment of every description shall be abandoned, and as the same packet also brought the report of a speech by Lord Palmerston in the House of Commons, in which he states that orders to that effect had been given, I immediately telegraphed and wrote to Sir Gaspard le Marchant, that no more recruits were to be received from the United States at Halifax; and I gave also by telegraph directions to Lieutenant Preston to break up the dépôt at Niagara.

Since these directions were given, I think I can safely affirm that not a single individual from the United States has been enrolled in the Foreign Legion.

Conceiving that the object of the American Government, in making through Mr. Buchanan the remonstrance against recruitment in the United States contained in that Minister's note of the 16th of July, had now been fully attained, I addressed to Mr. Marcy (on the 8th of August) a private letter, suggesting to him, on my own personal responsibility and without instructions from my Government, the expediency, with a view to avoiding the appearance of any want of harmony between the two Governments, of dropping the legal proceedings which had been instituted against Her Majesty's Consul at Cincinnati and against other parties at New York for a violation of the Neutrality Laws.

To this friendly overture I received no reply from Mr. Marcy, although he had returned to Washington and I had several conversations with him on other subjects, but at which he never alluded to the subject of the recruitment.

On the 24th of August I ventured to inquire of Mr. Marcy, whether my letter had ever reached him; he replied that it had, that the subject of it was under advisement, and that he would shortly communicate with me in regard to it.

This was all that passed, nor did Mr. Marcy make the slightest allusion either to the correspondence which had taken place between Mr. Buchanan and yourself, to the new point of view in which the Government of the United States now regarded the question, or to the pretended "disclosures" upon which charges have since been brought forward against Her Majesty's Diplomatic and Consular Agents and against the British provincial authorities.

Had Mr. Marcy informed me of these matters, I should at all events have been able to demonstrate to him the falsehood of those charges. And even supposing that I might not have succeeded in changing his view of the subject, and he still should have conceived that he had grounds for complaint against Her Majesty's Government and their Agents, he would at least have been obliged to weigh my statements as to facts against those of the witnesses who have been brought forward as "State's evidence" to depose in a Court of Justice to the grossest falsehoods, and he would have been able to ground his complaints, if he still had thought it necessary to make them, upon my statements and not upon evidence of a character which reflects little credit upon the parties who have had recourse to it.

On the 6th of September I received Mr. Marcy's note of the 5th of that month, which is in your hands, and which it is unnecessary that I should here examine. I may remark however that Mr. Marcy in this note, although he alludes to disclosures which he states implicate Her Majesty's Diplomatic and Consular Agents in what he considers an international offence, omits to state by whom those disclosures were made, and only generally indicates the nature of the conclusion based upon them to which the United States' Government had come.

Had Mr. Marcy not withheld the source of his intelligence, an opportunity would again have been afforded to me to rebut the false statements of his informers, and to expose their character and the motives by which they were actuated. But no information on this subject was given, and it was not until the trial of Hertz and Perkins which took place at Philadelphia on the 21st of September and the following days, that the informers upon whose statements the United States' Government relied for establishing the charge they had made, and the documents which they imagined gave colour to it, were produced in a public Court of Justice.

The character of that trial has been so recently commented upon by me that it will be unnecessary for me further to examine it here. I may say, however, that it was avowedly, as will be seen by Mr. District Attorney Vandyke's statement to the Court by direction of the Attorney-General of the United States, instituted not against the persons who were ostensibly arraigned, but against Her Majesty's Diplomatic and Consular Agents and the British Colonial authorities; it could not, moreover, have been, as is stated by Mr. District Attorney Vandyke, instituted for the purpose of breaking up recruitment for the British service in the United States, because that gentleman and the United States' Government must have known that all recruitment, legal or illegal, had been put a stop to several weeks before.

I may also repeat, as appears from the former part of this letter, that Mr. Marcy and the United States' Government must have known that the proceedings of Hertz were, from the moment he attempted to enter upon a system of recruitment, disavowed by Her Majesty's officers.

No. 56.

Mr. Crampton to the Earl of Crampton.—(Received December 17.)

My Lord,

Washington, December 3, 1855.

I HAVE the honour to inform your Lordship that your despatch of November 16 was delivered to me by messenger Grattan on the evening of Saturday last the 1st instant, and was by me communicated to Mr. Marcy on the following day.

Mr. Marcy stated to me that he would take the subject of your Lordship's despatch into immediate consideration; but abstained from any discussion of the matter to which it relates.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 57.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, December 19, 1855.

I COMMUNICATED to Her Majesty's Secretary of State for the War Department your despatch of the 21st of October last, relative to the enlistment of persons in the United States who have deserted at various times from regiments quartered in Canada, but who, you had been informed, were very desirous of reentering Her Majesty's service; and I have to acquaint you that Lord Panmure has informed me that having communicated with the Field-Marshal Commanding-in-chief upon the subject, he is of opinion that it would be inexpedient to resort to such a measure.

I am, &c.
(Signed) CLARENDON.

No. 58.

Mr. Marcy to Mr. Buchanan.—(Communicated to the Earl of Clarendon by Mr. Buchanan, January 29, 1856.)

Sir,

*Department of State,
Washington, December 28, 1855.*

I HAVE received from Mr. Crampton, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary to this Government, a despatch addressed to him by the Earl of Clarendon, Her Majesty's Principal Secretary of State for Foreign Affairs, in reply to my despatch to you of the 13th of October.

This document has been carefully considered by the President; and I am directed to present to you his views thereon, for the purpose of having them laid before Her Majesty's Government.

It is perceived, with deep regret, that there exists a very wide difference of opinion between this Government and that of Great Britain, in regard to the principles of law involved in the pending discussion, and a still wider difference, if possible, as to the material facts of the case.

It is due alike to the serious importance of the questions under consideration, and to the sincere respect entertained for the elevated character and position of Lord Clarendon, that opinions and views so much in conflict with his should be not merely announced, but sustained.

To do this, I shall be obliged to occupy much space, and notice several delicate topics; but in performing this unavoidable duty, I shall refrain, as far as practicable, from any allusion to subjects which may lead to irritation; and I hope to remove the impression from Lord Clarendon's mind that my previous despatches have manifested a "tone of hostility," and have been framed in a spirit incompatible with the duty, which I feel as sensibly as he can, of maintaining friendly relations between the two countries.

I am quite certain that Lord Clarendon is not aware of the serious importance which the United States attach to the question under discussion; otherwise he would not have so harshly characterized the conduct of the United States' officers on whom the duty to suppress recruiting for the British service was devolved; nor would he have so freely arraigned the motives of this Government for requiring some satisfaction for what it regards as a grave national wrong.

The variant views of the British Government in relation to recruiting

for its armies within the United States, render the precise position it intends to maintain somewhat uncertain.

To present the different aspects in which the two Governments view the case, and to show the reasons for dissenting from some of the statements and the main conclusions contained in Lord Clarendon's despatch of the 16th of November, a recurrence to the prominent points appears to be indispensable.

The claim put forth in that despatch, of the right of a foreign belligerent Power to resort to the territories of a neutral State to recruit its armies, and for that purpose to employ such means as he justifies, raises one of the gravest international questions which can come under consideration. If that right be conceded, then any foreign Power can justifiably resort to measures for recruiting its armies within the jurisdiction of this country, almost co-extensive with those which can be employed by this Government.

Before adverting to the conduct of the officers and agents of Her Majesty's Government in recruiting within the territories of the United States, it will be necessary not only to define our own rights, but to ascertain the precise limits of British pretensions.

After the debatable ground shall be clearly ascertained, the range of discussion will, it is hoped, be reduced to narrower limits, and the probability of an amicable adjustment of the present difficulties increased.

When the Parliament of Great Britain authorised foreign enlistments, there was no apprehension here that the United States would be resorted to for that purpose. This Government had what was regarded as the assurance of Her Majesty's Government, that enlistments in this country would not be attempted by British authority, unless notice was given and its consent obtained.

While the Bill for Foreign Enlistments was under consideration in Parliament, Her Majesty's Ministers were warned against resorting to a measure which would be dangerous to peaceful relations with other Powers.

When the Duke of Newcastle, Her Majesty's Secretary of War and a member of the Cabinet, introduced that Bill into the House of Lords, he was asked to state from what country the Foreign Legion was to be obtained, and he replied that the question could not be answered until communications were had with foreign Governments. No such communication has ever been made to this Government, but, on the contrary, much was done here, after the plan of recruitment was in full operation, to allay the suspicion that the British Government was in anywise connected with it.

After Her Majesty's Ministers came to the determination to raise recruits within the United States, it is much to be regretted that their purpose, together with the instructions to their agents, was not made known to this Government. There is some vague language used in the last despatch of Lord Clarendon, which seems to imply that this had been done, but it is not positively asserted, nor could it be. The first intimation which reached this Government that recruiting within the United States had the sanction of British authority was derived from the proceedings which had taken place in executing the plan of enlistment. The first step taken by the British Government, or any of its officers, in communicating with that of the United States on the subject was one which implied an assurance that the British Government not only had no connection with, but actually discountenanced the scheme of recruiting for the British army, although it subsequently appeared that the proceedings were supervised by British officers and conducted by their agents. This assurance was derived from a letter dated the 22nd of March, addressed by Mr. Crampton to the British Consul at New York, and about that time read to me. I shall have occasion hereafter to bring that letter under particular consideration.

Without any notification from the British Government of such an intention, it would have been extremely illiberal to indulge a suspicion that Her Majesty's Ministers or officers had been so unmindful of what was due to courtesy as to authorise or even countenance the unfriendly procedure of sending agents into the United States to raise recruits for

the British army. The offenders against the laws of the United States were therefore treated as individuals unconnected with the British Government, and unsustained by its authority or means, but the judicial proceedings against them soon disclosed facts which established a complicity of Her Majesty's officers in the British provinces in this scheme of recruiting in the United States.

The next step in the progress of events was the delivery in May, at the Department of State, of a copy of a despatch from Lord Clarendon to Mr. Crampton, dated the 12th of April last, relating to that subject. This paper demands special attention. It conveyed the first distinct intimation that Her Majesty's Ministers had given instructions for enlistments in the United States, together with the fact that to the British Minister, Mr. Crampton, had been assigned some duty in that service. Lord Clarendon says to Mr. Crampton in that despatch, "I entirely approve of your proceedings, as reported in your despatch No. 57 of the 12th ultimo, with respect to the proposed enlistment in the Queen's service of foreigners and British subjects in the United States." Thus it was brought to light that the British Cabinet had proposed enlistments in the United States, and had employed Her Majesty's Envoy Extraordinary and Minister Plenipotentiary accredited to this Government to aid in the undertaking. When this despatch was received at this Department, Mr. Crampton was in the British provinces. It had direct reference to the enlistment for the Queen's service of foreigners and British subjects in the United States. The object to be accomplished was against law, and it is difficult to conceive what one step Mr. Crampton could have taken in furtherance of it without putting at defiance an Act of Congress which prohibits, in explicit terms and under heavy penalties, such a proceeding.

Being satisfied that the Government of Great Britain reciprocated our friendly sentiments, and that it would not deliberately and designedly authorise proceedings within the jurisdiction of the United States in contravention of their laws, this Government was disposed to believe that there had been some strange misapprehension on the subject by Her Majesty's Cabinet, and that the inadvertent mis-step would be retraced as soon as it was perceived, with such explanations to this Government as the circumstances of the case seemed to require.

The closing part of the despatch alluded to was interpreted as indicating a consciousness that the British Ministers, in authorising enlistments in the United States, had acted at first in utter ignorance of the laws of this country, for Lord Clarendon says, "The law of the United States with respect to enlistments, however conducted, is not only very just but very stringent, according to the report which is inclosed in your [Mr. Crampton's] despatch, and Her Majesty's Government would on no account run any risk of infringing the laws of the United States." But as that risk would be inevitably run if the design should be pursued, it was expected that the original scheme of recruiting within the United States would be promptly and wholly abandoned.

After the lapse of some time, this Government discovered that it had looked with a mistaken confidence to a result so much desired. Throughout the months of April, May, and June, the business of recruitment proceeded upon a wider field, and with increased vigour; it was extended to regions which it had not hitherto reached; the efforts of our magistrates and tribunals scarcely checked, but could not arrest it, and proofs were daily brought out which show that the recruiting business derived validity and energy from the countenance and means afforded by Her Majesty's officers resident in the United States and in the adjoining British Provinces.

To arrest the evil, an appeal to the British Government, unpleasant as such a step was, became necessary, and, in the early part of June, you were directed by the President to present the case to the notice of the Earl of Clarendon. In your note to Lord Clarendon of the 6th of July, the case is clearly and ably laid before his Lordship, and he is assured that this Government had reason to believe, and did believe, that British officers were engaged in carrying out a scheme of recruiting for the British army within the United States, in contravention of their laws and sovereign rights, and you were instructed to ascertain from the

British Government how far these officers had acted with or without its approbation, and what measures, if any, had been taken to restrain their unjustifiable conduct. Lord Clarendon was assured that the President would be gratified to learn that Her Majesty's Government had not authorized the proceedings complained of; that it had condemned the conduct of its officials engaged therein, had visited them with its marked displeasure, and taken measures to arrest the proceedings complained of.

The reply to this note deserves particular notice on several accounts, but especially for the difference between it and the despatch of the 16th of November, now under consideration.

In the note of the 16th of July, Lord Clarendon seems to admit that the restraining effect of the law of the United States in regard to recruiting, is such as this Government asserts it to be; but by his exposition of that law in his despatch of the 16th of November, it is bereft of the very stringent character he had before ascribed to it, and it is now so construed by him as to afford justification for such acts as, in his former note, he considered to be illegal.

In the note to you of July, the British Government only claimed the right to make generally known to British subjects and foreigners in the United States who wished to enter Her Majesty's service, and take part in the war, its desire to accept these volunteers, and to receive such as should present themselves at an appointed place in one of the British provinces.

That Lord Clarendon intended, in his note of the 16th of July, to exclude all pretension to a right to publish hand-bills, offering inducements, and to send agents into the United States for recruiting purposes, is shown by the following passage:—"It can scarcely be matter of surprise that, when it became known that Her Majesty's Government was prepared to accept these voluntary offers, many persons, in various quarters, should give themselves out as agents employed by the British Government, in the hope of earning reward by promoting, though on their own responsibility, an object which they were aware was favourably looked upon by the British Government. Her Majesty's Government do not deny that the acts and advertisements of these self-constituted and unauthorized agents were, in many instances, undoubtedly violations of the laws of the United States, but such persons had no authority whatever for their proceedings from any British agents, by whom they were promptly and unequivocally disavowed."

These positions, taken by the Earl of Clarendon, brought the matter to a definite point. This Government took issue upon his allegation that the persons engaged in recruiting in the United States were self-constituted, unauthorized agents, whose acts had been disavowed; and it maintained, on the contrary, that the persons performing them were authorized agents, and had embarked in that service in consequence of inducements, stronger than the mere hope of uncertain reward, held out to them by British officers; that they were promised commissions in the British army, and some of them were actually received and treated as fellow officers, and, as such, were paid for their services, received instructions from Her Majesty's servants for the guidance of their conduct while within the United States, and were furnished in the same way with abundant funds for carrying on their recruiting operations in this country. The persons engaged in the United States in recruiting were, in fact, the agents and instruments of eminent British functionaries resident here and in the neighbouring British provinces. The numerous judicial investigations and trials have brought out a mass of testimony too strong to be resisted, implicating these functionaries and sustaining the foregoing allegations.

When this state of the case was presented to Lord Clarendon, with the designation by name of some of the higher British officers, and with the assurance, by the President, that the information he possessed did not allow him to doubt their participation in the offence against the laws and sovereign rights of the United States, his Lordship did not then call for the evidence, as he has since done, but disposed of it by the general declaration, "that even the extraordinary measures which have been adopted in various parts of the Union to obtain evidence against Her Majesty's

servants, or their agents, by practices sometimes resorted to under despotic institutions, but which are disdained by all free and enlightened Governments, will fail to establish any well-founded charge against Her Majesty's servants."

It is presumed that his Lordship's misapprehension as to the character of the evidence, and the means by which it was obtained, has been since corrected, because, in his last note, he not only calls for the names of the British officers implicated (though some of them had been before given), and the specific charges against them, but for a particular statement of the evidence by which these charges are sustained, professing to have very imperfect information in regard to the matters complained of, although full four months have passed since his attention was first called to them by this Government.

The exposition he has given to the statute of the United States against recruiting, and the restrictions he has placed upon our sovereign rights, show that his views on that subject have been greatly modified since his first despatch was written.

As that law is now construed by him, scarcely any evidence, however obtained, or whatever be its character, will be sufficient to implicate any one in the offence of recruiting within the United States.

If the views of Lord Clarendon as to that law and the sovereign rights of the United States can be maintained, the territories of this country are open, almost without restriction, to the recruiting operations of all nations, and for that purpose any foreign Power may sustain a vigorous competition with this Government upon its own soil.

This Government does not contest Lord Clarendon's two propositions in respect to the sovereign rights of the United States; first, that in the absence of municipal law, Great Britain may enlist, hire, or engage, as soldiers, within the British territory, persons who have left the United States for that purpose. This proposition is, however, to be understood as not applying to persons who have been enticed away from this country by tempting offers of reward, such as commissions in the British army, high wages, liberal bounties, pensions, and portions of the royal domain, urged on them while within the United States, by the officers and agents of Her Majesty's Government. And secondly, no foreign Power has a right "to enlist and organize and train men as British soldiers within the United States." The right to do this Lord Clarendon does not claim for his Government, and whether the British officers have done so or not, is, as he appears to understand the case, the only question at issue so far as international rights are involved between the two countries.

In his view of the question as to the rights of territory, irrespective of municipal law, Lord Clarendon is understood to maintain that Her Majesty's Government may authorize agents to do anything within the United States short of enlisting, and organizing and training men as soldiers for the British army, with perfect respect to the sovereign rights of this country.

This proposition is exactly the reverse of that maintained by this Government, which holds that no foreign Power whatever has the right to do either of the specified acts without its consent. No foreign Power can, by its agents or officers, lawfully enter the territory of another to enlist soldiers for its service, or organize or train them therein, or even entice persons away in order to be enlisted, without express permission.

This, as a rule of international law, was considered so well settled that it was not deemed necessary to invoke the authority of publicists to support it. I am not aware that any modern writer on international law has questioned its soundness. As this important principle is controverted by Lord Clarendon, and as its maintenance is fatal to his defence of British recruiting here, I propose to establish it by a reference to a few elementary writers of eminence upon the law of nations:—

"Since a right of raising soldiers is a right of Majesty which cannot be violated by a foreign nation, it is not permitted to raise soldiers on the territory of another without the consent of its Sovereign."—*Wolfius*.

Vattel says that "the man who undertakes to enlist soldiers in a foreign country without the Sovereign's permission, and, in general, whoever entices away the subjects of another State, violates one of the

most sacred rights of the Prince and the nation." He designates the crime by harsher names than I choose to use, which, as he says, "is punished with the utmost severity in every well-regulated State." Vattel further observes, that "it is not presumed that their Sovereign has ordered them [foreign recruiters] to commit a crime; and supposing even that they had received such an order, they ought not to have obeyed it; their Sovereign having no right to command what is contrary to the law of nature."

Hautefeuille, a modern French author of much repute, regards permission—and acquiescence implies permission—by a neutral Power to one belligerent, though extended to both, to raise recruits in its territories, unless it was allowed in peace, to be an act of bad faith which compromises its neutrality.

There can be no well-founded distinction, in the rule of international law, between raising soldiers for a belligerent's army and sailors for its navy, within a neutral country. Hautefeuille says, "The neutral Sovereign is under obligation to prohibit and prevent all levying of sailors upon its territory for the service of the belligerents." Again, he says, "The neutral must prohibit, in an absolute manner, the levying of sailors upon its territory, to complete a ship's company reduced by combat or any other cause."

"The prohibition to engage sailors on the territory of a pacific Prince, must extend to foreigners who are found in the ports of his jurisdiction, and even to those who belong to the belligerent nation owning the vessel that wishes to complete its crew or ship's company."

Reference to other writers might be made to sustain the position contended for by this Government, and to overthrow that advanced by Lord Clarendon, but the authority of those presented is deemed sufficient for that purpose.

This view of the law on the subject was presented to Parliament when the Foreign Enlistment Bill was under debate. On that occasion, Lord Stanley said, that the object proposed by it was, "to resort to a practice which for the last hundred years the opinion of European statesmen had not hesitated to condemn."

This is the doctrine on the subject of recruiting soldiers and sailors by belligerents on neutral soil, which this Government maintains and insists upon applying to the present case.

There is another view of territorial rights which Lord Clarendon has not distinctly brought out, but which has a direct bearing upon the questions under consideration. The extent of a nation's sovereign rights depends, in some measure, upon its municipal laws. Other Powers are bound not only to abstain from violating such laws, but to respect the policy of them. The British officers who set in operation the scheme for recruiting in this country, which resulted in numerous acts against its law, being beyond its jurisdiction, did not by such a proceeding expose themselves to the penalties denounced by that law, but they violated its policy; and their acts, if done in obedience to the orders of their Government, or in carrying out its purposes, involved that Government in responsibility for their conduct. It is the sovereign right of every independent State that all foreign Powers should abstain from authorizing or instigating their officers or agents to do that, even within their own dominions, which would, as a natural or very probable consequence, lead to the contravention of the municipal laws of such State. Some of the proceedings by British officers and agents in regard to recruiting within the United States, though conducted beyond the limits thereof, were considered by this Government an infringement of their sovereign rights, and constituted one ground of remonstrance to Her Majesty's Government.

But Lord Clarendon's exposition of the municipal law of the United States in respect to recruiting therein, has created much more surprise than the restriction he has laid on the sovereign rights of this country.

If I do not misconceive his meaning, Lord Clarendon's interpretation nearly annuls the clause in the Act of Congress which prohibits enlisting within the United States for foreign service, and thus leaves the British officers and agents full liberty to do almost anything for that purpose.

He says, "that no enlistment in the British service is valid without

attestation, and that, according to British law, a recruit cannot be attested in a foreign country, nor even in the British Colonies, without a specially delegated authority for that purpose."

The other provisions of the law which forbid hiring or retaining persons within the United States to go beyond the limits thereof, for the purpose of enlisting in foreign service, are reduced to the same imbecility by a similar course of reasoning. Lord Clarendon says:—

"No binding contract could therefore be made with any man within the United States; promises might be so made, but any money given to men to enable them to repair to places beyond the United States' territory for the purpose of being enlisted, would be advanced at a risk."

In order to prevent misconception as to Lord Clarendon's views on this subject, and to show that the inferences here deduced from them are correct, I add another extract from his despatch of the 16th of November.

"There can be no question that the men who went to Halifax were free and not compelled to be soldiers on their arrival. Upwards of 100 Irishmen, in one body for instance, if Her Majesty's Government are rightly informed, refused to enlist on arriving there, and said they came in order to work on a railroad. They were, therefore, not enlisted, hired, or retained as soldiers in the United States; no attempt was made to enforce against them any such contract or engagement."

Lord Clarendon, it is true, uses language in other parts of that despatch, which seems to admit that enlisting into foreign military service within the United States, or hiring or retaining persons to leave the United States to enlist into such service, would be a violation of the United States' neutrality law; but this admission amounts to nothing when taken into connection with his definition of the terms enlisting, hiring, or retaining. In his view, as I understand it, each act must be the result of a valid contract. If the persons are not bound when they have left the United States to perfect their enlistment, then there has been no violation of the United States' law. Such a contract made in the United States, being expressly prohibited by law, would of course be void. I think this conclusion is fairly deduced from Lord Clarendon's language; or rather, is his own conclusion, stated by him in a different manner.

This Government cannot concur in these views. They deprive the law of the United States of all stringency, and render it a dead letter. The earlier opinion of Lord Clarendon in regard to that law is the one which this Government strenuously maintains.

In his despatch of the 12th of April, to which I have already referred, he admits "that the law of the United States, with respect to enlistment, however conducted, is not only very just but very stringent;" but, as I understand his latter opinion, the law imposed very little restraint upon the British officers and agents who embarked in the scheme of recruiting in this country; it left them with all the liberty they had occasion to use for their purpose; they could penetrate every part of the country; open rendezvous in any city; publish hand-bills, ornamented with the emblem of England's royalty, presenting every inducement for enlisting which a United States' officer engaged in recruiting troops for his own Government could offer; and yet, in doing all these things, they would comply with the stringent instructions—so often repeated to them, and now so much relied on for their justification—not to violate the United States' Law of Neutrality.

Under the construction given by Her Majesty's Government to that law, the injunction not to violate it could have had very little significance, and is not admitted by this Government as an available excuse for what was done by Her Majesty's officers and agents.

After the most deliberate and respectful consideration of Lord Clarendon's views, in his despatch of the 16th of November, as to the sovereign rights of the United States, the effect of their Neutrality Law, and the conduct of the British officers and agents in carrying out the scheme of recruiting, this Government is constrained to differ most widely from them all.

It cannot but regard the original design, which had the sanction of the British Cabinet, as a dangerous measure, which should not have been

adventured on without the consent of this Government. The scheme for carrying out that design, which, it is presumed, was devised in the United States or the British Provinces, was framed in an utter disregard of the Act of Congress, and almost every step in the progress of executing it was attended by the transgression of that law.

The reason offered by Lord Clarendon for not having acted on the complaint of this Government against the British officers who were engaged in recruiting within the United States, and the precedent condition to be performed before that complaint will be attended to, deserve particular consideration.

Lord Clarendon says, "They (Her Majesty's Ministers) must, therefore, request the United States' Government to make and establish more distinct charges, with proper specifications against particular individuals by name; and that Government will, I am confident, not deny the justice and the necessity of giving each person implicated the opportunity of knowing what is alleged against himself, and of dealing with the evidence by which the charge may be supported."

In your note to Lord Clarendon of the 6th of July, the charges, as well as the designation of persons, were less distinctly presented than in the despatches subsequently laid before Her Majesty's Government; yet in Lord Clarendon's reply to that note, he did not object to the charges for being indefinite, or to the designation of the persons implicated for uncertainty. He did not deny that the United States' law had been violated, but insisted that it had been done by self-constituted and unauthorized persons for whose acts British officers were not responsible.

In my despatch of the 5th of September, addressed to Mr. Crampton, the charges were repeated with more distinctness, and Mr. Crampton, himself, and Sir Gaspard le Marchant, were both named.

Lord Clarendon appears to have understood that Her Majesty's Consuls in some of the cities of the Union were included in the charge against British officers resident within the United States.

Nothing was said in Lord Clarendon's reply to my despatch of the 5th September, concerning his imperfect information on the subject, or his uncertainty as to the persons complained of; nor did he then call for the evidence by which the participation of the British officials in the infraction of the law of the United States was to be established; but he set aside the whole of the evidence by the sweeping allegation that the practices resorted to for obtaining it rendered it incompetent "to establish any well-founded charge against Her Majesty's service."

The ground taken in July that the persons engaged in recruiting who had violated the law of the United States were self-constituted and authorized agents, is abandoned in his despatch of November. In the latter it is not denied that these persons have acted under the authority of the British Government; but Her Majesty's Ministers now propose to give their attention to the demand of this Government for redress, if it will make and establish more distinct charges, with proper specifications against particular individuals by name. Quite as much, and, indeed, more than is usual, has been done in this case in specifying charges and indicating the persons implicated. The despatches from this Government in the possession of the British Ministers, made such disclosures as to the infringement of the law and rights of the United States, and as to the British officers and agents concerned therein, as called for a full investigation of the subject by Her Majesty's Government. Such an investigation on its part was, in the opinion of the United States, due to the friendly relations of the two countries, and would have been in strict conformity to established usage; but that Government has remained apparently inactive, and is, it seems, disposed so to remain, until the American Secretary of State shall name the individual persons accused, describe the particular acts performed by each, with specification of time, place, and the evidence relied on to sustain the charges; until the proceedings shall assume, as it were, the form, and be conducted by the legal rules of a criminal trial, in which the Government of the United States is to present itself as the prosecutor, and the accused as defendants.

It is believed that such a course is unprecedented in diplomacy, and a

dangerous departure from that hitherto pursued in similar cases. If generally adopted, it would introduce a new element of discord into international intercourse, which could not fail to disturb the peace of nations, and would inevitably lead to a protracted controversy, engendering, at each step in its progress, hostile feeling between the parties.

Though the example of this Government may not be much regarded, I will refer to an instance of a recent date, in a matter of less grave importance but of similar character to that under discussion, as illustrating the course which, in the opinion of this Government, should have been pursued in this case. Not long since, Her Majesty's Minister, Mr. Crampton, represented to this Government that the bark "Maury" was being fitted out in the port of New York as a privateer, to depredate upon the commerce of the allies. The evidence, if it could be called such, to support the charge, consisted of affidavits detailing loose rumours, and some circumstances about her equipment, which justified a bare suspicion of an illegal purpose. If there could be a case which would warrant the course suggested by Her Majesty's Ministers in respect to the complaint of this Government against British recruitments within the United States, it would be that of the bark "Maury;" but the President, without the slightest hesitation or delay, ordered proceedings to be instituted against that vessel, and against all persons who should be found to be implicated. All the alleged causes of suspicion were immediately investigated, and the result, which showed the utter groundlessness of the charges, was promptly communicated to Her Majesty's Government.

If this Government, acting upon the rule now prescribed in the case of the British recruitments in this country, had replied to that of Great Britain on the complaint against the barque "Maury," that inasmuch as Mr. Crampton had not made any definite charge—had not named the persons accused, with a precise statement of their acts, or when and where done, or produced the evidence on which he intended to rely to support his allegation, so that the persons concerned may have an opportunity to deal with it—nothing will be done, no step will be taken, until these preliminary matters shall have been attended to; would such a reply in the case of the "Maury" have been what Her Majesty's Ministers might have expected? Would it have been deemed courteous or friendly to the British Government?

Lord Clarendon may be well assured that such a reply in the case of the "Maury" would have been quite as satisfactory to Her Majesty's Government as is his reply to this Government in relation to its remonstrance and complaint against British recruitments within the United States.

Until this Government was apprised by Lord Clarendon's despatch of the 16th of November of the position adverted to in regard to its complaint with reference to that proceeding, it indulged a confident expectation that Her Majesty's Ministers would take the usual course in such cases. The grounds of the complaint were fully disclosed, the offence clearly stated, some of the British officers named, and others with more than usual precision indicated; sufficient information was given to direct their inquiries, but Her Majesty's Government has refused to do more than offer to pass on the issues which may be made between this Government and those officers after the pleadings and proofs are laid before them, as prescribed in Lord Clarendon's despatch.

For most controlling reasons, which on reflection will readily occur to Lord Clarendon, this process of litigating the case is declined.

So far as respects the British officers and agents whose acts in carrying out the project of recruiting in disregard of law were performed beyond the limits of the United States, and also those persons who acted within those limits but have since left the country, nothing further remains to be done. This result is deeply regretted: the sense of wrong which led this Government, most reluctantly, to present their conduct to the consideration of Her Majesty's Government as a violation of the law and rights of the United States, survives the hope of redress.

Before I present the President's views in respect to other British functionaries who are implicated, and who now hold official positions here by

the consent of the Executive, it seems to be proper that other parts of the despatch of the 16th of November should be particularly noticed.

In that despatch Lord Clarendon has subjected to unfair suspicion the purpose of this Government in seeking redress and insisting upon it after the proceedings complained of have ceased, and, as he alleges, by the interposition of the British Government.

The circumstances which led to the abandonment of the recruiting scheme will be adverted to hereafter. This act is regarded by Her Majesty's Government as a favour for which the United States are not sufficiently grateful. If it be a favour, then the recruiting, carried on as it was by British authority in the United States, was the exercise of a right. The application was made to Her Majesty's Government to discontinue recruiting by its officers, because it was a national offence. This Government cannot receive the mere suspension of wrongdoing, even if unintentional, as a favour, and consequently does not consider Lord Clarendon's reflection upon it for not so receiving it as at all deserved. As the proceedings for raising recruits for the British service in this country resulted from instructions to Her Majesty's officers here and in the British provinces, issued by the Ministers of the Crown, for that express purpose, the order to discontinue them is regarded as a mere act of justice, but in no respect a satisfaction for a past injury.

This Government asked, as a part of the satisfaction due to it from Great Britain, that the men who had been enticed contrary to law from the United States into the British provinces, and there enlisted into Her Majesty's service, should be discharged. A casual reading of Lord Clarendon's despatch of the 16th of November may convey an impression that this demand has been acceded to, but such is not the true import. The language of that despatch is as follows:—

“If it can be shown that there are persons now in the Foreign Legion who have been enlisted or hired in violation of the United States' law as well as of British law, Her Majesty's Government will be prepared to offer them their discharge.”

The offer is not, to discharge them if it be shown that they were enlisted or hired in violation of the law of the United States. That fact would be of no avail, unless it were shown that they were also enlisted or hired in violation of British law. This is no concession whatever to the Government of the United States, for if the men were enlisted or hired contrary to the law of Great Britain, no antecedent transaction within the United States would strengthen their just claim to be discharged. The single fact of having been enlisted or hired in violation of the United States' law would not be available under this offer, unless the further fact be shown that the enlistment was also in violation of the British law.

Notwithstanding the illegal means which were used to entice or decoy them to leave the United States for the purpose of being enlisted into the British Foreign Legion, their subsequent enlistment in the British provinces would be valid according to the British law. Under this offer by Lord Clarendon, probably not one of the many hundred men who were induced, contrary to law, to leave the United States and go to the British provinces, and were there enlisted, could obtain his discharge either on his own application or on that of this Government. This offer of Her Majesty's Ministers does not therefore in any respect meet the demand of this Government.

Lord Clarendon has placed on record “certain facts,” seven in number, the correctness of which, he says, he does not doubt will be admitted by me. After duly considering them, I am constrained to say that there is scarcely one of them bearing on the merits of the case under discussion which I can admit without essential modifications. Some of them I shall make the subject of remark.

One of these alleged facts, or rather statements, which I cannot omit to notice is, “that as soon as it became apparent that the United States' Government was adverse to the scheme, and that it might lead to violations of the United States' law, the project was abandoned out of deference to the United States;” and he adds an expression of regret that “this proof of good faith and goodwill of Her Majesty's Government has not been noticed or appreciated by the Government of the United States.”

If the fact on which Lord Clarendon relies for the proof of good faith and goodwill shall be shown to be essentially different from what he conceives it to be, he will understand the cause why this Government does not appreciate it as he does.

In a question of this kind, dates are important. When did it become apparent that the United States' Government was averse to the recruiting scheme, and how soon thereafter was it abandoned? I hope to be able to convince Lord Clarendon that they were not contemporaneous events; that far the greatest number of objectionable acts committed by the British officers, was performed long after this Government had, in the most public and emphatic manner, reprobated the recruiting project; after prosecutions had been pending for months against the agents of British officers, with the full knowledge of these officers, and also, as it was fair to presume, with the knowledge of their Government.

Mr. Crampton's intercourse with these recruiting agents commenced in January. On the 4th of February, he notified to Strobel and Hertz, by a note addressed to each, that he was then able to give them precise instructions on the subject alluded to in a previous personal interview, and there can be no doubt that the subject alluded to was, recruiting within the United States. That scheme did not significantly develop itself in our principal cities until the month of March. Immediately thereupon, the United States' Government manifested the most decided, unequivocal, and public demonstration of averseness and resistance to it. Their attorney at New York was instructed to suppress enlistment in that city, and prosecute those engaged in it.

On the 23rd of March, he called upon the United States' Marshal for his assistance and cooperation, and addressed to that officer a letter containing a copy of the United States' law against foreign recruiting within their jurisdiction, stating that "the Government is determined to execute the laws to their fullest extent." In that letter he employed the following language:—"I wish you to use such means as may be at your command to prevent any violation of the laws of the United States, which are passed to preserve our neutrality." On the succeeding day, this letter was published in the journals of the city of New York, of the widest circulation, and shortly thereafter in the "Washington Union," and throughout the country.

Numerous arrests of persons charged with enlisting men for the British service were made in March; their examinations before the magistrates were published at that time in the newspapers of the country; their cases were laid before grand juries, and indictments found against them. Not only in New York, but at Boston, Philadelphia, and other places, the most vigorous efforts were publicly made by the federal officers, acting under instructions of the United States' Government, to arrest these recruitments for the British service, and bring the offenders to justice. No local transaction was ever more generally known, or more freely animadverted on. It provoked much excitement against the persons engaged in it; and had it then been known that they were, in fact, employed by officers in eminent military and civil positions in Her Majesty's service, under instructions from their Government, it might have been difficult to restrain public indignation within proper limits.

The landing of the "first instalment of the Foreign Legion," as it was called, from the United States, at Halifax, was chronicled, with much exuberance of joy, in the "Halifax Journal" of the 2nd of April. As that is a British journal, in the interest of Her Majesty's Government, and published where Sir Gaspard le Marchant, the Governor of Nova Scotia, who is implicated in the scheme of recruiting, resides, and where the main depôt for receiving the men thus enlisted was situated, I will make one or two extracts from its article of the 2nd of April:—

"The brig 'America,' arrived from Boston on Friday, with the first instalment of troops for the Foreign Legion, amounting to seventy; most of them are Hungarians and Germans. They were landed at the Queen's Wharf and marched up to the Military Hospital, followed by an immense throng of citizens who were anxious to have a peep at them."

For the purpose of showing that the active opposition of this Govern-

ment to the enlistment scheme, at that early day, was notorious, not only through the length and breadth of this country, but in Her Majesty's North American Provinces, and to the British officials who had set the scheme on foot and were superintending its execution, I direct attention to the extract from the same article in the "Halifax Journal," which contained the foregoing announcement of the arrival of the "first instalment" at Halifax. "Brother Jonathan," says that journal, "is making a great fuss about this Foreign Legion, and is using all kinds of proclamations to prevent the shipping of recruits, &c., threatening to arrest parties engaged. He is a very smart fellow, but Bluenose is sometimes too much for him. They would like to lay hands on Mr. Howe, but he is so slippery they cannot catch him."

This state of things; this public excitement; the obvious fact that vigorous measures had been taken by this Government to put a stop to this scheme of recruiting for the British army, so widely known here in March, could not but have been well known in England by the middle of April, and if the recruiting project was abandoned as soon as the aversion to it by this Government was manifested, it should have ceased in that month. Such, however, was not the fact. Was it abandoned in the succeeding months of May and June? Through both of these months the recruiting agents swarmed more numerous than at any previous time in various parts of the Union; and the scheme was never prosecuted more vigorously than at that period. Mr. Crampton spent nearly all the month of May in the British Provinces in forwarding that scheme, though he must have been aware, as early as March, of the fact that the British recruiting agents had been prosecuted by the United States.

The disclosures on the examination and trial of the offenders first brought to light the information which rendered it quite certain that British officials had instigated these recruitments, that the agents employed were engaged by them, and were plentifully supplied with means for carrying on the service.

No abatement of the efforts to execute the scheme, except what was fairly attributable to the criminal proceedings against some of the recruits, was visible, when you were directed in my despatch of the 15th of July, as you had been in that of the 9th of June, to call the attention of Her Majesty's Government to the subject. No knowledge of the abandonment of the scheme was received here until the 4th of August.

More than four months before it was known here that there was any intention to suspend the scheme, this Government had, in the most public manner, signalized its utter repugnance to the proceedings under it; and nearly two months before any notice of such intention was received here, instructions were sent to you to remonstrate against it, and to claim satisfaction for the part which British officers had taken in the perpetration of this international offence.

I have presented this detail of facts to show the reasons why I cannot admit, as the Earl of Clarendon assumes I would, the correctness of his statement, "that as soon as it became apparent that the United States' Government was averse to the scheme, and that it might lead to violations of the United States' law, the whole project was abandoned out of deference to the United States."

The President cannot adopt the opinion of Lord Clarendon, that the question between the two countries has shrunk into the narrow limits he has assigned to it. It is true that the scheme is at length abandoned, and this Government accepts his assurance that it is not about to be revived; but the right to revive it, and to carry it out to the same extent as heretofore, is held in reserve. If nothing more is to be done, the United States are left without indemnity for the past, or security for the future; and they will be understood as assenting to principles which have been once resorted to, and may be again, to lay open their territories to the incursions of the recruiting agents of any belligerent that may have occasion to augment its military force.

Another of the facts put on record by the Earl of Clarendon, which he assumes I will admit to be correct is, "that Mr. Marcy was in confidential communication with you [Mr. Crampton] on the subject for months, with-

out ever, that I am aware of, warning you against attempting any thing of the kind, or stating that the United States would resist or resent it, apart from any question of municipal law; thus, in effect, acquiescing, and only insisting that the United States' law should be respected."

It gives me pleasure to say, that my intercourse with Mr. Crampton has been intimate, friendly, and perhaps it may be regarded as having been in some degree confidential. I resisted the evidence tending to implicate him in the recruiting project until it became too powerful to be any longer withstood. Scarcely anything could have occurred more painful to me, than to be obliged, by a high sense of duty, to controvert in any way, or even to qualify, a statement which it is fair to presume has had his sanction. The charge imputes to me official delinquency, but I shall notice it only on account of its direct bearing upon the merits of the case under discussion.

If I gave him no warning beyond insisting upon the observance of the United States' law, it was because I had not at that time any knowledge of the extent of the recruiting scheme. He had satisfied me that his Government had no connection with it; and I was in no way responsible for what was doing in the United States to raise recruits for the British army. The first intimation that I had been misled in this respect reached me while Mr. Crampton was absent in the British Provinces, shortly before my despatch of the 9th of June was sent to you.

It is not for me to raise the question whether Mr. Crampton has or has not complied with his instructions, to have "no concealment" with me on the subject; but I am quite certain that on no occasion has he intimated to me that the British Government or any of its officers was, or had been, in any way concerned in sending agents into the United States to recruit therein, or to use any inducements for that purpose; nor did he ever notify me that he was taking, or intended to take, any part in furthering such proceedings. Such a communication timely made would probably have arrested the mischief at its commencement.

Very soon after the first development of the recruiting operations here, Mr. Crampton read to me a letter dated the 22nd of March, addressed by him to the British Consul at New York, the contents of which I here insert:—

"I have received your letter of the 20th instant [March] inclosing a printed handbill, signed Angus McDonald, and informing me that the said McDonald states to you that he has issued it by the authority of Her Majesty's Government.

"I have to state to you that Angus McDonald has no authority from Her Majesty's Government for the issue of the handbill in question, or for hiring or retaining any person in the United States to go beyond the limits of the same, with the intent to be enlisted in Her Majesty's service.

"This would constitute an infraction of the Neutrality Laws of the United States (Act of Congress, 1818, section 2), and Her Majesty's Government, however desirous they may be to obtain recruits for the British army, are still more anxious that the laws of the States with which Her Majesty is at peace should be respected."

I regarded this act by Mr. Crampton as a disavowal by the British Government, as well as by himself, of all participation in the recruiting proceedings, then just commenced within the United States.

Lord Clarendon ought not to believe that Mr. Crampton was more communicative to me than he had been to his own Government. As late as the 16th July last, after the orders for abandoning the scheme had been issued, Lord Clarendon was in utter ignorance that a single agent had ever been sent into the United States, or employed therein for the purpose of recruiting for the British army. This is proved by the following extract from his despatch of that date.

"Her Majesty's Government do not deny that the acts and advertisement of these self-constituted and unauthorized agents were, in many instances, undoubted violations of the law of the United States; but such persons had no authority whatever for their proceedings from any British agents, by all of whom they were promptly and unequivocally disavowed."

Lord Clarendon seems not to be aware of a fact which interrupted

for at least a month in the business season of recruiting all communication whatever between Mr. Crampton and myself.

Not long after Mr. Crampton read to me his letter to Mr. Barclay, which satisfied me at that time that Her Majesty's Government had not only no connection with the recruiting then going on in the United States, but discountenanced and condemned it, he left Washington, went to the British provinces, and did not return hither until the early part of June. He made no disclosure to me after his return in regard to the object of his visit to the provinces. What he did in furtherance of the recruiting scheme during this month's absence was but imperfectly known until about the time of Hertz's trial, and I am not indebted for this knowledge to any communication from Mr. Crampton. If the opportunity afforded by any "confidential communication" between Mr. Crampton and myself was not turned to good account, and blame is imputable to either, it certainly does not attach to me. Mr. Crampton could not have been ignorant of what is now established beyond doubt, that a scheme for raising troops for the British service within the United States had been approved and adopted by Her Majesty's Government; that authorized agents, furnished with instructions and pecuniary means, and stimulated by the promise of commissions in the British army and other tempting rewards, had been employed to induce persons to leave this country and go into the British provinces for the express purpose of entering into the British service, and that many were prevailed on to do so, had embarked for Halifax, free of expense, in vessels employed by British authority for that purpose, and, on arriving at Halifax, had enlisted and been enrolled in the British Foreign Legion.

It is with reluctance that I perform the duty of bringing into view Mr. Crampton's connection with some of the agents who were employed in carrying out the recruitment system, and who have, in doing so, violated the law and sovereign rights of this country.

The interview between Mr. Crampton and Mr. Hertz, who was convicted in September last for violating the Neutrality Laws of the United States, is established by Mr. Crampton's two letters to Hertz, one dated the 27th of January, and the other the 4th of February, 1855. The originals of both, in the handwriting of Mr. Crampton, were produced to the Court at the trial of Hertz. In the latter, Mr. Crampton says, "With reference to our late conversation, I am now enabled to give you some more definite information on the subject to which it related."

This connection being established, it is allowable to allude briefly to Hertz's account, verified by his oath, of what took place between himself and Mr. Crampton in relation to recruiting in this country. Nothing is known of Hertz which can affect his veracity, except the fact that he was engaged in recruiting for the British army within the United States contrary to law, and has been convicted for that offence.

Hertz says, "All that I did in procuring and sending men to Halifax for the Foreign Legion was done by the advice and recommendation of Mr. Crampton, Mr. Howe, and Mr. Mathew. I was employed by Mr. Howe, and acted as his agent with the knowledge and approbation of Mr. Crampton and Mr. Mathew. Mr. Mathew knew of both the expeditions I sent. He approved and encouraged me in sending them away. He encouraged me by his advice and counsel, and in giving me money to send them away."

Mr. Max F. O. Strobel acted a more conspicuous part than Mr. Hertz, and his conduct in the affair under consideration requires to be more fully traced. In the statement here presented in regard to his proceedings and connection with British officers, and among them with Mr. Crampton, I intend to rely almost entirely upon original documents in possession of this Government. I do not mean, however, by this restriction, to cast the slightest doubt upon the credibility of Mr. Strobel.

Mr. Crampton's letter to Mr. Strobel was dated on the same day (February 4) as that addressed to Hertz, and is expressed nearly in the same terms,

After Mr. Strobel's interviews with Mr. Crampton in Washington, he embarked in the recruiting service, and suddenly rose to the rank of

"Captain of the 1st Company of the Foreign Legion." He went, with a detachment of recruits raised in Philadelphia, to Halifax, was exultingly received into fellowship with the military and civil officers of the highest position in Her Majesty's service there stationed; was invited to partake of the hospitalities of "his Excellency Sir Gaspard le Marchant," of "Colonel Clark and the officers of the 76th Regiment," and of "Colonel Fraser, Colonel Stotherd, and the officers of the Royal Artillery and Royal Engineers," and the original cards of invitation addressed to him were produced on Hertz's trial.

After such an endorsement of his character, it would seem that the testimony of Captain Strobel, even if it were uncorroborated, should command confidence.

Mr. Strobel, who had then acquired the rank of "Captain of the 1st Company in the Foreign Legion," and Mr. Crampton, were again brought together at Halifax, and were engaged there for some time in making further arrangements for recruiting within the United States.

Original documents now in possession of this Government show that there can be no mistake as to the object of Mr. Crampton's visit to Halifax, and that it had special regard to recruitments in the United States for the British service.

Bruce Mc Donald, who appears to have been a Secretary in the Executive Department of Nova Scotia, addressed a letter to "Captain Strobel, 1st Company Foreign Legion," dated "Provincial Secretary's Office, May 3, 1855," in these words:—

"Dear Sir,

"I am directed by his Excellency the Lieutenant-Governor to introduce to you the bearer, Lieutenant Kuentzal. He comes with a letter to Sir Gaspard from Mr. Crampton. You will please explain to him the steps necessary for him to take to secure a commission."

On the 13th of May, the second or third day after Mr. Crampton's arrival at Halifax, J. W. Preston, Lieutenant of Her Majesty's 76th Regiment, who had charge of the dépôt at Niagara for the reception of recruits sent from the United States, wrote to Captain Strobel as follows:—

"My dear Strobel,

"I am directed by the General to acquaint you that Mr. Crampton wants to see you at his house at 10 o'clock to-morrow morning; be punctual. If you like, come up to my house at half-past 9 o'clock, and we will go together."

These letters corroborate Captain Strobel's statement, that Mr. Crampton, while at Halifax, was engaged about the recruiting business within the United States. He afterwards went with Captain Strobel to Quebec for the same purpose.

Passing, without comment, the plan for recruiting, which Strobel says was prepared at the request of Mr. Crampton, and approved by him and Sir Gaspard le Marchant, I propose to offer some remarks upon the instructions furnished by Mr. Crampton, while in the Provinces, to the recruiting agents who were to go to "Buffalo, Detroit, or Cleveland, to make known to persons in the United States the terms and conditions upon which recruits will be received into the British service." This paper will be found with the letters referred to in Hertz's trial. Its genuineness, I presume, will not be questioned. It is framed with great adroitness, and as it may be resorted to for a defence of Mr. Crampton's conduct, it is entitled to a careful consideration.

These instructions show that the persons sent into the United States to raise recruits therein for the Foreign Legion, were authorized agents of British officers, and received directions for the guidance of their conduct from Her Majesty's Minister to this Government. It is thought to be unreasonable in this Government to complain of any of Her Majesty's officers, because the agents thus employed were "enjoined carefully to refrain from anything which would constitute a violation of the law of the United States." A similar injunction to the agents first employed

was also contained in the directions which preceded the instructions issued by Mr. Crampton in May, and he well knew how utterly it had been disregarded by him. As his visit to the British Provinces had special relation to the recruiting service, it cannot be presumed that he was uninformed of what had then happened to these agents in Philadelphia, New York, and Boston, through which cities he passed on his way to Halifax. This Government had, as early as March, ordered prosecutions against the recruiting agents in those cities for having violated the law of the United States; many had been arrested for that offence, and against several of them grand juries had found bills of indictment. Instead of disconnecting himself from the proceedings which had led to this disastrous result, Mr. Crampton went to Halifax and Quebec to make further arrangements for sending other recruiters into the United States. He could have had no sufficient reason to believe that those who received fresh instructions, however cautiously devised, would pay any more regard to his injunction not to violate the law of the United States, than Hertz and others had done. His experience of the past should have deterred him from renewing the experiment.

As these instructions were furnished to many agents, they doubtless were framed with a view to have a critical inspection, and, in case of emergency, to be adduced as proof to show that special regard was intended to be paid to the United States' Neutrality Law. They will, however, hardly answer that purpose.

There can be no doubt that these revised instructions were intended to impress the recruiting agents with the expediency of greater circumspection in their business, but it is evident that the motive for this caution had much more respect for the success of the recruiting project than for the United States' law. This is apparent from the following paragraph of these instructions:—

“7. It is essential to success that no assemblages of persons should take place at beer-houses or other similar places of entertainment, for the purpose of devising measures for enlisting, and the parties should scrupulously avoid resorting to this or similar means of disseminating the desired information, inasmuch as the attention of the American authorities would not fail to be called to such proceedings, which would undoubtedly be regarded by them as an attempt to carry on recruiting for a foreign Power within the limits of the United States; and it certainly must be borne in mind that the institution of legal proceedings against any of the parties in question, even if they were to elude the penalty, would be fatal to the success of the enlistment itself.”

Though the last instructions are a restriction upon the construction which Lord Clarendon has given to the law and rights of the United States, they would, even if literally observed, infringe both.

This Government maintains that in every instance where a person, whether a citizen or a foreign resident within the United States, has been brought to the determination to leave this country for the purpose of entering into a foreign service as a soldier or sailor, by any inducements offered by recruiting agents here, the law of the United States has been violated.

There certainly can be no doubt of the violation of the law of the United States in every case where one party, the recruit, has been induced by the terms offered to him actually to leave the United States for the purpose of entering into foreign military service, and the other party has furnished the means and borne the expense of taking him to a foreign dépôt, in the expectation that he would consummate the act by an enlistment. It will not, I presume, be denied that several hundred cases of this kind actually occurred in carrying out the scheme of British recruitment. The very design of employing agents for such a purpose, to act within the limits of the United States, involved in its consequences an infringement of that law.

It is the solemn duty of the Government of the United States to maintain this construction of their Neutrality Law, and the attempt to set

up and sustain a different one has created much surprise; that it has been done by a friendly Government with which the United States are most anxious to maintain and strengthen the relations of amity, is the cause of deep regret.

When the President presented the case to the consideration of Her Majesty's Government, with the assurance that he had such information on the subject as compelled him to believe that British officers in eminent stations were implicated in a scheme which had resulted in an infringement of the rights of the United States, and a violation of their law, and asked for some satisfaction for the wrong, he certainly did not expect that the conduct of these officers would be justified upon principles which impair the sovereignty of the United States as an independent nation, and by an interpretation of their law which makes it entirely ineffective for the purposes intended.

Some satisfaction for the injury was confidently expected, but nothing that can be regarded in that light has been offered, and this Government is compelled, in vindication of its rights and laws, to take a course which it sincerely hoped Her Majesty's Government would have rendered unnecessary.

Her Majesty's Minister to this Government, Mr. Crampton, has taken a conspicuous part in organizing and executing the scheme of recruiting for the British army within the United States. Were it possible, with due regard to the evidence and disclosures in the case, to assign him a subordinate part in that scheme, even that would not allow the President to change the course which he is obliged, under the circumstances, to pursue towards him. Any participation in the project, as it has been developed, of raising recruits in this country for the British service, was incompatible with his official relations to this Government. His connection with that affair has rendered him an unacceptable representative of Her Britannic Majesty near this Government, and you are directed by the President to ask Her Majesty's Government to recall him.

Mr. Rowcroft, the British Consul at Cincinnati, and Mr. Mathew, the British Consul at Philadelphia, are implicated in the recruiting project, and you are further directed by the President to ask for their removal for that cause.

The persons connected with the British Consulate at New York have been actively engaged in furthering the recruiting scheme. Mr. Stanley, the Assistant or Clerk of the Consul, has taken a more open part than the Consul himself, and is now under an indictment for violating the law against foreign recruiting. The Consul, Mr. Barclay, could not but know of Mr. Stanley's conduct in that matter, but he still retains him in the Consulate. Beside the responsibility that rightfully attaches to Mr. Barclay for the improper conduct of an employé in his office, and under his immediate and daily observation, this Government is satisfied that he has himself not only favoured the recruiting for the British army, but has participated in it. Moreover, the improper conduct of Mr. Barclay in the case of the bark "Maury," has justly given offence to the commercial community in which he resides, and with which he has official connection.

For these reasons this Government deems it proper to instruct you to ask the Government of Great Britain to withdraw Mr. Barclay from the post of British Consul at New York.

You are directed by the President to read this despatch to the Earl of Clarendon, and, should he desire it, to hand him a copy.

The copies of the original documents to which I have referred are contained in Hertz's trial. I send you herewith an authentic report of that trial, which you will offer to Lord Clarendon as a document connected with this despatch. I also send herewith a copy of the proceedings of the Chamber of Commerce in the city of New York relative to Mr. Barclay's conduct in the case of the bark "Maury." This also you will present to Lord Clarendon, as furnishing one ground for the request herein made for the withdrawal of Mr. Barclay.

I am, &c.
(Signed) W. L. MARCY.

Inclosure 1 in No. 58.

Report of Trial, United States v. Henry Hertz, et alios.

[See No. 44.]

Inclosure 2 in No. 58.

Report of the Committee of the New York Chamber of Commerce, respecting the Seizure of the barge "Maury."

THE Committee appointed by the Chamber of Commerce to ascertain and report the facts connected with the late seizure of the American barque "Maury," on the information of Mr. Barclay, Her Majesty's Consul at New York, respectfully submit, for the information of the Chamber, the following documents:—

1. Mr. Hunter, Assistant Secretary of State, to Attorney-General, October 12, 1855.
2. Telegraphic despatch from Attorney-General to United States' Attorney, New York, October 12, 1855.
3. Attorney-General to Secretary of State, October 12, 1855.
4. United States' Attorney, New York, to Her Britannic Majesty's Consul, October 13, 1855.
5. Same to Collector of Port, October 13, 1855.
6. Attorney-General to United States' Attorney, New York, October 13, 1855.
7. Her Britannic Majesty's Envoy, &c., to Secretary of State, with four affidavits, October 11, 1855.
8. United States' Attorney, New York, to Charles Edwards, Esq., October 16, 1855.
9. Deputy Surveyor of Port to United States' Attorney, New York, October 15, 1855.
10. Inspectors of Customs to Surveyor of Port, October 15, 1855.
11. United States' Attorney, New York, to Attorney-General, October 17, 1855.
12. Same to United States' Marshal, October 17, 1855.
13. United States' Marshal to United States' Attorney, October 19, 1855.
14. Messrs. Low to same, October 18, 1855.
15. Charles Edwards, Esq., to same, October 19, 1855.
16. United States' Attorney, New York, to Attorney-General, October 19, 1855.
17. Attorney-General to Secretary of State, October 19, 1855.
18. Same to United States' Attorney, New York, October 22, 1855.
19. Same to Secretary of State, October 22, 1855.
20. United States' Attorney, New York, to Attorney-General, October 20, 1855.
21. A. A. Low and Brothers to John A. Stevens, Chairman of Committee of Chamber of Commerce,
22. Depositions of J. N. Cornell and William D. Craft, police officers, before the Mayor, November 23, 1855.

Your Committee have sought no further evidence, as all the facts and suspicions are comprised in these papers. Proceeding to consider their import, it is to be remarked that the firm in question are American merchants, of this city, having a number of vessels, chiefly employed in the Pacific, China, and India Seas, being, perhaps, more largely engaged in this branch of commerce than any other house in the United States; that they are directors and managers in many important commercial institutions, are of high commercial standing, and are well known as men of probity and honour.

Your Committee find that the barque "Maury" was built in this city during the past summer for this firm; that she was advertized by them for thirteen days before the date of the affidavit, under their own name, in five daily

papers, to wit, the "Courier and Enquirer," "Journal of Commerce," "Commercial Advertiser," "New York Express," and "Evening Post," for Shanghai, in China; was loading wholly on freight; and never having taken her first clearance, her register had not been then issued from the Custom-house; that there was on board an armament of four guns, with a moderate supply of small arms, and also ten guns on freight, and that other cargo was being received. These guns were first placed in the lower hold, as temporary ballast; were afterwards raised to the between decks, and were never concealed in any way whatever. Such armament and freight are not unusual for vessels bound for the China Seas; and vessels similarly equipped have heretofore been dispatched from this and other ports in the United States, without suspicion or notice; and apart from other circumstances, armament and guns in the China trade afford no cause to suspect any intended infraction of the Neutrality or Revenue Laws, nor any intended illegal or questionable employment. Your Committee have not been able to ascertain, and do not believe, that there were any other facts which could reasonably lead to such suspicions in regard to this vessel. It is manifest, however, that they were entertained by the British Consul here, and by the British Minister at Washington; for, upon the affidavits and statements submitted by these functionaries, without a full ascertainment of the truth in a matter so important, and without an inquiry from the owners, and chiefly on an oath of belief, without a statement of the facts on which it was founded, the "Maury" was taken possession of by the United States' Marshal, on the afternoon of the 17th of October, under process from the United States' Court, founded on a libel, sworn to by the British Consul, as forfeited for a breach of the Neutrality Laws.

In the view of your Committee, the feelings of a respectable firm, and the character of New York merchants, have been needlessly disparaged and assailed, through heedlessness and culpable want of inquiry, or strange credulity on the part of those making the representations to the officers of the American Government; for it is clear, that in the lapse of seven days between the day on which the affidavits were made, and the day of the seizure, the true destination of the vessel, and all the facts of the case, could have been ascertained. The statement of Messrs. Low, so satisfactory after the seizure, could have been as easily obtained before it was made, by a simple application to them. Their advertisements of the vessel were in five daily papers, from the 27th of September to the 24th of October; and the seizure, upon suspicions so carelessly, so credulously entertained, is truly remarkable.

The appearance of the Marshal was the first intimation to the house that their standing and character had not protected them from the charge of being engaged in an unlawful and disgraceful undertaking. But these slanderous affidavits could not stand any examination, and instantly vanished before their simple statement. The exhibition of the unaccountable misapprehension, ignorance and credulity, on which the charge was based, alone survives. The proceeding of Mr. Barclay was withdrawn on the second day, one day being lost by his unwillingness to act, at all, without seeing Mr. Edwards. The Chamber will remark, that the affidavits were all sworn upon the same day, the 10th of October, and the steamer "Pacific," which left this port on the 17th of October, took out the information which has caused so much excitement and alarm on the other side of the Atlantic, unless it was forwarded by a preceding steamer. This information, thus hurried off prior to the seizure of the "Maury," was *ex parte* entirely, and no explanation could accompany it. By a public card, of the 20th instant, Mr. Barclay denies "having written a despatch to Her Majesty's Government in regard to that ship." Therefore, from whom it emanated, and by whose indiscretion the relations between the two countries were rudely jarred, is wholly in the dark. The letters of Mr. Barclay and Mr. Crampton leave upon them the burden of answering the inquiry. Your Committee were greatly surprised to observe by Mr. Crampton's note to the Secretary of State, that he had been informed by Mr. Barclay, not only that "he has good reason to believe that this vessel (the 'Maury') is intended for the service of Russia in the present war, but that a plan exists for fitting vessels of a similar description in other ports of the United States, with the express design of committing hostility against Her Majesty's Government, and more particularly of intercepting and capturing the British mail steamers plying between Liverpool and Boston." For such a statement, your Committee have been able to find no warrant in the

affidavit by any person, or of any fact, or indeed of any belief. They believe that no fact exists warranting any such statement, and they share a common surprise that any man living in this city, or having communication with it should for a moment believe it. On the contrary, the Committee have it from the highest authority, that the Government has no knowledge, belief, or suspicion that any privateer, or other armed vessel, is fitting out, or has been fitted out, in this country, for or against any of the European belligerents.

The Committee further report, that the following card from the British Consul appeared in the "New York Herald" of the 24th October, and do not find that it was published in any other paper:—

"Misrepresentations on the above subject (regarding the 'Maury') having been published in various newspapers, among others that munitions of war were found on board 'secreted under a quantity of cotton,' I desire to disabuse the mind of the public of that impression by stating that such was not the case.

"Had my endeavours, made before information was formally lodged, to ascertain the owners of the ship 'Maury' succeeded, the explanations which that respectable firm—Messrs. A. A. Low and Brothers—gave after the libel was filed, would have been sought by me, and no doubt would have been given before, and the course which was adopted would not have been resorted to.

(Signed) "A. BARCLAY,
"Her Britannic Majesty's Consul.

"New York, October 23, 1855."

This publication was not in time for the next steamer, which sailed from Boston for Liverpool the same day. It is for the Chamber to consider whether this card was an adequate atonement to the house whose vessel had been seized, or to this commercial community; or whether, in so grave a matter, affecting the sensibilities of two great nations, the most speedy and wide-spread recantation were not due to both,—alike from the British Consul and the British Minister.

The Government of the United States, from the time of the administration of Washington, to the present case of the "Maury," during all the contests which have existed since their independence, has, without fear or partiality, strictly enforced the rigid Neutrality Laws of the United States.

Although lawless men have sometimes escaped its vigilance, no administration of this Government has given reason to doubt its determination to maintain them. When the authorities, by accident, have not been able to prevent the offences, they have uniformly brought the offenders to trial at the earliest opportunity, and such trials have always been made with all the urgency which is consistent with justice.

It is due to our country briefly to recall the features of our Neutrality Laws. They not only express the political, but commercial sentiment of the country. First enacted in 1794, they have been continued and made more effectual by repeated subsequent enactments. No laws are more widely or generally known among public men. They forbid any citizen to accept any commission to serve against any people in peace with the United States. They forbid foreigners transiently within the United States, or on board any vessel within its jurisdiction, to enlist, or to go abroad to be enlisted, in the service of any nation at war with any such people. They forbid the fitting or arming any vessel, or increasing the armament of any armed vessel, with intent to be employed in any such service.

They forbid all military expeditions against any nation at peace with the United States, from the beginning, to provide means therefor, to the actual departure of such expeditions. They forbid the being concerned in fitting out any vessel to commit hostilities against any nation at peace with the United States.

These laws are the well-known expression of public opinion, and the common sentiment of the country. They have been enforced, as occasion required, against and in favour of all nations alike; against France, our earliest ally; in favour of Spain, when we had serious questions with her; against the weak and rising republics of the continent; and now, without partiality or fear,

against England, the most warlike and the most commercial of nations having relations with us.

The Chamber of Commerce of New York, holding these enactments as binding equally in law, honour, and conscience, claim but a common right in asserting that a charge of violating them—a charge which they deem a disgraceful impeachment—should not be lightly made, nor without careful inquiry, against any of their members.

The Committee unanimously recommend to the Chamber the adoption of the following resolutions :—

1. Resolved, That the Chamber of Commerce of New York receive and adopt the Report as a correct statement, and as containing the sense of this body on the subject.

2. Resolved, That no proper amends or apology have been made to A. A. Low and Brothers for the charge brought against them, which, if true, would have rendered them infamous; nor to the merchants of this city and country, so falsely and injuriously assailed.

3. Resolved, That the merchants of New York, as part of the body of merchants of the United States, will uphold the Government in the full maintenance of the Neutrality Laws of the country; and we acknowledge and adopt, and always have regarded the Acts of the United States for preserving its neutrality, as binding in honour and conscience, as well as in law; and that we denounce those who violate them as disturbers of the peace of the world, to be held in universal abhorrence.

All of which is respectfully submitted.

New York, November 27, 1855.

(Signed)

JOHN A. STEVENS.
GEORGE GRISWOLD.
P. PERIT.
E. E. MORGAN.
THOMAS TILESTON.
CHARLES H. MARSHALL.
STEWART BROWN.
MOSES H. GRINNELL.
ROYAL PHELPS.
ROBERT C. GOODHUE.
JAMES LEE.

APPENDIX.

No. 1.

Sir, *Department of State, Washington, October 12, 1855.*

By direction of the Secretary of State, I have the honour to inclose a copy of a note of the 11th instant, addressed to this Department by Mr. Cramp on Her Britannic Majesty's Minister, and of the affidavits which accompanied it, relative to a vessel called the "Maury," which is stated to have been fitted out at New York, in violation of the laws of the United States, for the purpose of cruising against British vessels.

I have, &c.

(Signed)

W. HUNTER,
Assistant-Secretary

To the Hon. Caleb Cushing,
Attorney-General.

No. 2.

(By telegraph.)

Washington, October 12, 1855.

John Mc Keon, Attorney United States, New York.

Mr. Crampton alleges that vessel, called "Maury," in Dover-street Dock, is armed for war against England. Please take information from Mr. Barclay and prosecute if cause appears.

Copies by letter to-morrow.

(Signed)

C. CUSHING.

No. 3.

Sir,

Attorney-General's Office, October 12, 1855.

I have the honour to inform you that, in consequence of the information communicated this day by Mr. Crampton, the Minister of Great Britain, in regard to the vessel called the "Maury," instructions have been dispatched to the Attorney of the United States in New York to advise immediately with Mr. Barclay, the British Consul there, and to institute the proper legal proceedings in the case, if sufficient cause to justify the same shall appear.

I am, &c.

Hon. William M. Marcy,
Secretary of State.

(Signed) C. CUSHING.

No. 4.

Southern District of New York.

Sir,

*United States' District Attorney's Office,
October 13, 1855, 9 30 A.M.*

Late last evening I received from the Attorney-General of the United States a telegraphic despatch, requesting me to obtain information from you in relation to a vessel in this port, supposed to be engaged in a violation of our Neutrality Laws.

I called this morning, at half-past 9 o'clock, at your office, with the Marshal of this District, but the office was not open.

Will you do me the favour to call at once at my office, or to send me the information, so that I may act?

With great respect, I remain, &c.

(Signed) JOHN Mc KEON,
United States' District Attorney.

Anthony Barclay, Esq.,
Consul of Her Britannic Majesty.

No. 5.

Southern District of New York.

Sir,

*United States' District Attorney's Office,
October 13, 1855.*

You will please send at once on board of a vessel called the "Maury" an inspector, and examine into her cargo.

She lies at Dover-street Dock. You will please delay her clearance until a report is made to me of her cargo.

Very respectfully, &c.

(Signed) JOHN Mc KEON,
United States' District Attorney.

H. J. Redfield, Esq.,
Collector, &c.

No. 6.

Sir,

Attorney-General's Office, October 13, 1855.

Yesterday I telegraphed you concerning the ship "Maury," said to be fitting out at New York, in violation of the statutes of the United States.

I now inclose to you a copy of a despatch from Mr. Crampton, the British Minister, dated the 11th instant, to which I there referred. With this document before you, and the information which Mr. Barclay may impart, you will be able to understand what further it may be proper for you to do in the premises.

I am, &c.

John Mc Keon, Esq.,
United States' Attorney.

(Signed) C. CUSHING.

No. 7.

Sir,

British Legation, Washington, October 11, 1855.

I have the honour to call your attention to the inclosed depositions which have to-day been forwarded to me by Mr. Barclay, Her Majesty's Consul at New York, in regard to a vessel called the "Maury," which is now fitting out at that port, and which, it appears, is evidently intended for warlike purposes.

Mr. Barclay further informs me that he has good reasons to believe that this vessel is intended for the service of Russia in the present war, and also that a plan exists for fitting vessels of a similar description in other ports of the United States, with the express design of committing hostilities against Her Majesty's Government, and more particularly of intercepting and capturing the British mail-steamers plying between Liverpool and Boston.

However this may be, the circumstances stated in the inclosed affidavits are of so positive a nature, and bear so suspicious an appearance, that I feel it to be my duty to call the attention of the United States' Government to the matter, with a view to an inquiry into the facts; and if these shall be confirmed, to the adoption of such measures on the part of the United States' authorities as may defeat the hostile intentions which appear to be entertained by the persons engaged in fitting out the vessel or vessels in question.

I avail, &c.

(Signed)

JOHN F. CRAMPTON.

The Hon. William L. Marcy.

City, County, and State of New York.

Anthony Barclay, Her Britannic Majesty's Consul for the State of New York, being duly sworn, doth depose and say: That from information given to him, he verily believes, and expects to be able to prove, that a certain new vessel, now in the port of New York, called the "Maury," has been built, fitted out, and armed, with intent that such vessel should be employed by the Russian Government to cruise and commit hostilities against the subjects and property of the Queen of Great Britain, with whom the United States are at peace, and this deponent stands ready to bring forward his proof thereof; and he respectfully claims that proceedings be had and taken whereby the said vessel, with her tackle, apparel and furniture, together with all material and ammunition and stores, which may have been procured for this building and equipment thereof, shall and may be forfeited.

(Signed)

ANTHONY BARCLAY.

Sworn to, this 10th day of October, 1855, before me,

(Signed)

GEORGE W. MORTON,

United States' Commissioner.

City, County, and State of New York.

John A. Cornell, of New York city, police officer and dockmaster of the Eleventh Ward, being duly sworn, maketh oath and saith: that his suspicions have been excited for several weeks past by the appearance of a new three-masted, square-rigged schooner, which was lying at the foot of Stanton-street, New York, up to Monday evening the 8th of October, when she moved down to Dover-street Dock, and is there now; that she has the name of the "Maury" upon her stern, but has never yet been out of port, and deponent has ascertained at the Custom-house of the Port of New York that she has not at present got her register; that this deponent is well acquainted with the build of vessels, and he has no hesitation in deposing that this vessel, named the "Maury," is built, rigged, and equipped for warlike purposes, and has not the construction of a vessel for the merchant service; that his suspicions were particularly aroused from the nature of her cargo she has taken on board, which consists of war cannon, cannon balls, small arms, coals, sixty or eighty extra spars, and other mercantile articles; that this deponent, within a few days last past, has been

over the whole of the said vessel; at the bottom of the said vessel, and just above what appears to be intended as ballast, are from two hundred to three hundred square boxes containing cannon balls; also, there are from eighteen to twenty cannon intermingled with the said boxes, apparently so that they may pack well; on the top of the cannon is a large quantity of coal, while on the top of the coal is a lot of lumber and the aforesaid extra spars; in the lockers of the cabin s a very large quantity of guns, pistols, swords, and other implements of war; and this deponent verily believes that she is so fitted out for warlike purposes; her cannon are all mounted, and she has port-holes for cannon; and this deponent further says, that a person who assumes to act as first mate of the vessel showed her to deponent, and remarked she had a curious kind of cargo, and the manner of the mate was such as to make deponent believe that the vessel was going on a warlike voyage; the said mate told deponent that some of the aforesaid cannon were for 18-lb. and 20-lb. ball, and that the cannon on the main deck were for 9-lb. ball calibre; deponent saw the mark "23" upon one of the cannon, and the mate said that was the number of the cannon; and this deponent further saith, that from all he knows, and has been informed, and has observed, he believes that the said vessel, the "Maury," has been built, and armed, and equipped, as aforesaid, by the Russian Government, or its agents, to be used for war purposes against Great Britain, and he hereby informs against her and her equipment accordingly.

(Signed) JOHN N. CORNELL.

Sworn at the City of New York, Second Circuit, the 10th day of October, 1855, before me,

(Signed)

GEORGE W. MORTON,
United States' Commissioner.

City, County, and State of New York.

Charles Edwards, of the City of New York, Counsellor at Law, being sworn, maket oath and saith, he verily believes the new vessel "Maury" has been built, equipped, and loaded, by and for the Russian Government, to be used in the present war against the vessels and subjects of Great Britain.

That a person, who deponent believes has been in the pay of Russia, gave him a full explanation of the armament on board the said vessel, which tallies with the statement contained in the affidavit of John N. Cornell, hereto annexed, except that the explanation to this deponent was much more minute.

Also, this deponent gathered from the person referred to, that the said vessel, the "Maury," when outside of port, would ship a new crew of about eighty men, and she would be employed at first more particularly in attempting to overhaul some one or more of what are known as the "Cunard steamers" (British vessels), and take them as prizes, put additional coal on board, and guns, and then go in company; while there were also other vessels built and fitted out by the Russian Government similar to the "Maury," who were ready to join her on a similar errand, with an ultimate destination against British possessions in the eastern hemisphere.

(Signed) CHARLES EDWARDS.

Sworn at the City of New York, Second Circuit, the 10th day of October, 1855, before me,

(Signed)

G. W. H. MARTIN.

City, County, and State of New York.

William D. Craft, of New York, First Lieutenant of Poliee, of the Eleventh District of Police for the city of New York, being duly sworn, doth depose and say: That on the 6th day of October instant he went on board a new vessel called the "Maury," then lying at the foot of Stanton Street, New York, and was shown over her. On her upper deck were six cannon, all mounted, and port-holes for the guns, and between decks were ten cannon, all mounted. Also, deponent saw a quantity of horse-pistols in the cabin; there was coal on board, and deponent was informed that there was a number of guns underneath the coal. Deponent also discovered boxes between decks. The between-decks were all clear fore and aft, with the exception of pump-well and

chain-box. She was painted white between decks, with the exception of the lower side of the deck beams, they being of yellow pine. And this deponent also saith that he was a ship-carpenter by trade, and from his observation of the particular build, furniture, and apparel of the said "Maury," he believes she is a vessel of war.

(Signed) WM. D. CRAFT.

Sworn at the City of New York, Second Circuit, the 10th day of October, 1855, before me,

(Signed) G. W. H. MARTIN,
M. Circuit.

No. 8.

Southern District of New York.

United States' District Attorney's Office,
October 16, 1855.

Sir,

I have prepared a libel against the ship or vessel called the "Maury," upon the facts laid before the Government by Her Britannic Majesty's Envoy at Washington.

A verification of the pleading is required to be made by some party officially recognized as representing Her Britannic Majesty's Government at this port.

I am, &c.

(Signed) JOHN Mc KEON,
United States' District Attorney.

To Charles Edwards, Esq.

No. 9.

Custom-House, New York,
Surveyor's Office, October 15, 1855.

Sir,

I inclose report of District Officers who examined the barque "Maury," pursuant to instructions. The barque is new, and has not yet taken out her register; said to be owned by Low and Brothers, whose vessels are all, I believe, engaged in the China trade.

Very respectfully, &c.

(Signed) J. L. BENEDICT, *Deputy Surveyor,*
For Surveyor.

H. J. Redfield, Esq.,
Collector.

No. 10.

Dear Sir,

New York, October 15, 1855.

Pursuant to instructions we have been on board the bark "Maury," and find her laden on her ground tier with coal, and naval stores above the coal.

She was taking on board on Saturday last, the 13th, cases of goods, casks of hardware, scales and beams, pickles, preserves, and catsups.

She has on her lower deck ten, and on her upper deck four cannon, all mounted.

The dock clerk says she is loading for Shanghae, to go in the opium trade.

(Signed) JACOB BITTEL,
A. W. SHADBOLT,
Inspectors.

To John Cochrane, Esq.,
Surveyor of the Port.

No. 11.

Southern District of New York.

United States' District Attorney's Office,
October 17, 1855.

Sir,

I have the honour to report, that acting on the communication from you, and after consultation with Mr. Barclay and his legal adviser, I have this day filed a libel on the Admiralty side of the United States' District Court against the vessel assuming to be called the "Maury," under the 3rd section of the Neutrality Act of 20th April, 1818.

With high respect, &c.

(Signed)

JOHN McKEON,

United States' District Attorney.

To. Hon. Caleb Cushing,
Attorney-General, United States.

No. 12.

Southern District of New York.

United States' District Attorney's Office,
October 17, 1855.

Sir,

I take the liberty to request that you will have the cargo of the "Maury" carefully examined, and communicate to me the result.

It is proper for me to state, that it is supposed that you will find munitions of war stowed under the lading of coal on board.

Very respectfully,

(Signed)

JOHN McKEON,

United States' District Attorney.

A. T. Hillyer, Esq.,
United States' Marshal, Southern District, New York.

No. 13.

Southern District of New York.

United States' Marshal's Office,
New York, October 19, 1855.

Sir,

In reply to your communication of the 17th instant, requesting me to have the cargo of the "Maury" carefully examined and report to you the result, I beg leave to inform you that I have ascertained there are 250 tons of coal in the run of said vessel, ten iron cannon between decks, mounted on wooden carriages; four ditto on deck; a number of boxes containing muskets, not opened; a number of small and side arms in the cabin; a lot of shot, and an assorted cargo, lumber, &c. Should it be deemed necessary to have the cargo thoroughly overhauled and the coal taken out, the expense attending such labour would not be less than 150 dollars or 200 dollars. Awaiting your further instructions in the case, I remain, &c.,

(Signed)

AB. T. HILLYER,

United States' Marshal.

To John McKeon, Esq.,
United States' District Attorney.

No. 14.

To the Hon. John McKeon, United States' District Attorney.

Sir,

New York, October 18, 1855.

The barque "Maury," owned in part by the Undersigned, having been seized by a process from your office, we beg to offer the following explanations, viz. :—

That the said vessel was built by Messrs. Roosevelt, Joice, and Co., of this city, under a contract made in the month of April last, after the model of the barque "Penguin;" that she was designed for the China trade; that there is nothing peculiar in her construction apart from the rig, which was adopted with particular reference to economy in men; that in pursuance of the original intention, she was advertised some three weeks since for Shanghai, since which she has been receiving freight for that port; that she has on board, from Messrs. Fogg and Brothers, 200 tons of coal, a quantity of naval stores, and a variety of ship chandlery, for their house in China, with a little other general freight, with which she is expected to sail the coming week, under the command of Captain Fletcher, for the port above named.

We further declare, that in addition to the ordinary armament of a vessel of her class, she has but two deck guns, supposed to be necessary in consequence of the great increase in the number of pirates on the coast of China; that the other guns, shot, &c., on board, as per subjoined list, were purchased under an order from an American gentleman at Canton, and shipped per "Maury" on freight; that said vessel has four spare spars, one fore-top-gallant mast, one fore-top-gallant yard, one main boom, one main gaff boom, and five extra studding sail booms; and that her crew will consist of but twelve or fourteen men before the mast.

They furthermore declare that the vessel received the name of "Maury" in the month of May last, not to dishonour a man of whom our country has so much reason to be proud, but to bear upon an honourable mission the name of him who has done so much to improve navigation.

The Undersigned pledge themselves to prove to the satisfaction of the British Consul, while the vessel is still under the charge of the United States' Marshal, that the allegations made against the vessel are false; that she has no guns or materials of war under her coal, asking only that the expense to which they may be thus subjected shall be borne by the said Consul, when, and only when, the statements upon which the vessel has been so unjustly seized, are fully disproved.

Finally, they declare that the Russians have no connection whatever with the enterprise in question.

(Signed) A. A. LOW,
Of the Firm of A. A. Low and Brothers.

On freight 10 guns, 62 boxes of shot.

Sworn to before me, this 18th day of October, 1855.

(Signed) GEO. F. BETTS,
United States' Commissioner.

I hereby swear that I am cognizant of the facts mentioned in the foregoing statement, and that they are true.

(Signed) NATH. B. PALMER.

Sworn to before me, this 18th day of October, 1855.

(Signed) GEO. F. BETTS,
United States' Commissioner.

No. 15.

In the matter of the "Maury."

Dear Sir,

New York, October 19, 1855.

From the explanations made in the case by Messrs. A. A. Low and Brothers, under oath, and your own very proper suggestions, I deem it reasonable that you should be left entirely free; confessing that although statements to me were very strong, it would be but fair towards the owners to "lift" the libel.

I remain, &c.

(Signed) CHARLES EDWARDS.

To John Mc Keon, Esq.,
United States' District Attorney.

No. 16.

Southern District of New York.

*United States' District Attorney's Office,
October 19, 1855.*

Sir,

Since filing the libel against the barque "Maury," reported to you on the 17th instant, I have been attended by one of the firm of A. A. Low and Brothers, the owners of the "Maury," who furnished me an original statement, which I inclose.

Charles Edwards, Esquire, was present when the explanations were made, and has addressed to me a letter, of which I transmit a copy. Upon a full view of all the circumstances, I deemed it right to order a discharge of the vessel, and to ask your concurrence in dismissing the libel.

I have, &c.

(Signed) JOHN McKEON,
United States' District Attorney.

To Hon. Caleb Cushing,
Attorney-General, United States.

No. 17.

Sir,

Attorney-General's Office, October 19, 1855.

I have the honour to inclose herewith copy of a letter this day received from Mr. McKeon, Attorney of the United States for Southern New York, reporting the institution of process against the vessel called "Maury," as to which complaint has been made by the British Minister, alleging that said vessel is armed in violation of law to cruise against a neutral Power.

I am, &c.

Hon. William L. Marcy,
Secretary of State.

(Signed) C. CUSHING.

No. 18.

Sir,

Attorney-General's Office, October 22, 1855.

I have received your letter of the 19th instant, communicating the result of inquiry regarding the barque "Maury."

The allegation against that vessel was improbable on its face; but, determined as the President is not to suffer any of the belligerent Powers to trespass on the neutral rights of the United States, it was deemed proper to investigate the case, out of respect for the British Minister, through whom the British Consul at New York preferred complaint in the premises.

It is made manifest, by the documents which you transmit, that the suspicions of the British Consul as to the character and destination of the "Maury," were wholly erroneous; and justice to her owners and freighters requires that the libel against her be dismissed.

I have, &c.

Hon. John McKeon,
Attorney of United States, New York.

(Signed) C. CUSHING.

No. 19.

Sir,

Attorney-General's Office, October 22, 1855.

I have the honour to communicate to you the history and result of the proceedings in the case of the barque "Maury," of New York.

In consequence of the British Minister's communication to you, of the 11th instant, and which you referred to me on the day of its receipt (the 12th), brief instructions were on the same day dispatched by telegraph to Mr. McKeon, Attorney of the United States for the Southern District of New York, and more detailed instructions by mail the next day, requesting him to make immediate

inquiry on the subject of the "Maury," to consult thereon with Mr. Barclay, the British Consul at New York, and, if sufficient probable cause appeared, to institute the proper process against her in the District Court.

These instructions were induced by the documents communicated by the British Minister, copies of which were transmitted by me to Mr. Mc Keon.

The documents consisted of—

1. An affidavit by Mr. Barclay, setting forth that he believed, and expected to be able to prove, that the "Maury" was built, fitted out, and armed, with intent to be employed by the Russian Government to cruize against the subjects of Great Britain, and that he stood ready to bring forward his proof thereof.

2. An affidavit of one Cornell, purporting to be a police officer in New York, who professes to describe the build, equipment, armament, and cargo of the "Maury," and concludes with expression of belief that she was built, armed, and equipped by the Russian Government for war purposes against Great Britain.

3. An affidavit of one Craft, also purporting to be a police officer in New York, who speaks more guardedly, briefly describes the visible armament of the "Maury," repeats hearsay as to her freight, and expresses belief that she is a vessel of war.

4. Finally, the affidavit of Mr. Edwards, a Counsellor-at-law in New York, understood to be counsel for the British Consul, who says that he verily believes that the "Maury" was built, equipped, and loaded by and for the Russian Government, to be used in the present war against the vessels and subjects of Great Britain.

Mr. Edwards then proceeds to state that a person, who, he believes, has been in the pay of the Russian Government, gave him a full explanation of the armament and destination of the "Maury." He, Mr. Edwards, "gathered from the person referred to" that the plan of the "Maury" was to attack and capture one of the Cunard British mail-steamers, arm the prize, and, after being joined by other vessels of the same construction, built and fitted out by the Russian Government, to proceed to attack the British possessions in the East Indies.

The representations concerning the "Maury," which Mr. Edwards thus adopted, were so grossly improbable on their face, and had so much the air of a contrivance to impose on him, and, through him, the British Consul, so as to produce some hesitation in my mind as to the propriety of instituting process in the case; but the specific and positive statements of Cornell and Craft, especially the former, as to the build, rig, armament, and imputed contents of the vessel, seem to me, on the whole, to justify and require an examination of the case, at the hazard of possible inconvenience to innocent parties.

To make such examination effectual, it was necessary to libel the "Maury," and place her in charge of the Marshal.

I have now received from Mr. Mc Keon report of the result of the investigation.

It appears that the "Maury" was owned in part by Messrs. A. A. Low and Brothers, who have afforded satisfactory information as to her construction, character, and destination.

They make affidavit that she was built and equipped for trade with China, having, in addition to the ordinary armament of vessels in that business, only two deck guns, deemed requisite on account of the increase of piracy in the seas of China.

It further appears by these explanations, that the statements made as to the guns and munitions of war and extra spars on board the "Maury" were inaccurate, to use the mildest admissible expression; that the surmises as to the illegality of her character are not substantiated by proof; and that she is in fact advertised for general affreightment, and receiving cargo destined for Shanghai.

Neither Mr. Barclay nor Mr. Edwards brought forward any evidence to contradict these facts; on the contrary, Mr. Edwards has, in a letter addressed to Mr. Mc Keon, expressed his conviction of the propriety of dismissing the libel, which is also recommended unreservedly by Mr. Mc Keon.

Under these circumstances, it affords me pleasure to enable you to give assurance that the Cunard mail-steamers may continue to enter and to leave our

ports without apprehension of being captured by the "Maury," and conveyed into Russian men of war for the prosecution of hostilities in the East Indies.

I annex copies of Mr. McKeon's report; of the affidavits submitted by parties interested in the "Maury," or in her lading; and of the letter of Mr. Edwards to Mr. McKeon.

Hon. William L. Marcy,
Secretary of State.

I am, &c.
(Signed) C. CUSHING.

No. 20.

Southern District of New York.

*United States' District Attorney's Office,
New York, November 20, 1855.*

Sir,

I have the honour to inclose a copy of a letter received from the Honourable Mr. H. Grinnell.

I am not aware of any objection on our part, but still I desire to have your assent to the application, before I deliver the papers referred to in Mr. Grinnell's letter.

Very respectfully,
(Signed) JOHN Mc KEON,
United States' District Attorney.

Hon. Caleb Cushing,
Attorney-General, &c.

No. 21.

To John A. Stevens, Esq., Chairman of Committee of Chamber of Commerce.

The barque "Maury" was launched about the last of September; and, at an early day thereafter, the Undersigned agreed with Fogg Brothers, of this city, to take for them to the port of Shanghae, in China, 200 tons of coal, 1,000 barrels of merchandise, and 70 to 80 tons of measurement goods.

The coals not being at once available, ten mounted guns and their equipments, intended to have been sent by the "N. B. Palmer," but not ready in season for her, were sent to the vessel to be placed in her bottom, and to serve as ballast till the coal could be had. When this was put on board, the guns were raised between decks, and shortly afterwards the vessel was moved to her berth at Pier 27, East River.

Having been publicly advertised by the Undersigned for the port of Shanghae in five daily papers, the "Maury" was receiving freight at the place above named on the 17th day of October, at 2 to 3 o'clock P.M., when the United States' Deputy-Marshall appeared on board, displaced the captain, and ordered the hatches of the vessel to be closed.

Captain Fletcher immediately made known to us what had taken place, and the writer repaired to the office of the United States' District Attorney to obtain an explanation. He was in Court, and appointed the following morning for an interview. At 9 A.M. of Thursday, the 18th, the writer called at his office with his partner, Mr. Lyman, and Mr. Fogg, of the firm above referred to, and finding that the vessel had been seized by reason of information lodged against her by the British Consul, as set forth in the accompanying deposition, the following statement was drawn up and sworn to. [See No. 14.]

This the District Attorney said he would forward to Washington. In the meantime, he was willing to release the vessel on our giving bail, which we thought it best not to do.

From the District Attorney the writer went to Mr. Barclay, made the explanations which had been given to the former, showed the order under which the guns had been purchased, and requested a withdrawal of his complaint against the barque. Mr. Barclay was not willing to act without first seeing Mr. Edwards, his counsel, and a party to the complaint. When called upon a second time, the statement made to the District Attorney was read to him, but he was still unwilling to act without Mr. Edwards.

On the following day, about forty-eight hours after the vessel was seized,

Mr. Edwards called at the District Attorney's office, withdrew the complaint, and the libel was lifted without any charge to the owners of the "Maury."

It is due to the District Attorney to state, that in the meantime the vessel was allowed to receive cargo under the surveillance of two of the Marshal's men.

On Monday, the 22nd, Mr. Barclay called at the office of the subscribers, and expressed his regret that he had occasioned us so much trouble; and was told that the least he could do was publicly to acknowledge the error into which he had been betrayed, and to say that the vessel had been seized in ignorance of her ownership.

A paragraph from the "Boston Daily Advertiser" was shown to Mr. Barclay, as an evidence of the exaggerated character the report of the vessel's seizure was assuming in other places. On Wednesday, the 24th, the following appeared in the "New York Herald":—

"Misrepresentations on the above subject having been published in various newspapers—among others, that munitions of war were found on board, secreted under a quantity of cotton—I desire to disabuse the mind of the public of that impression, by stating that such was not the case.

"Had my endeavours, made before information was formally lodged, to ascertain the owners of the ship 'Maury' succeeded, the explanations which that respectable firm, Messrs. A. A. Low and Brothers, gave after the libel was filed, would have been sought by me, and no doubt would have been given before, and the course which was adopted would not have been resorted to.

(Signed) "A. BARCLAY,
"Her Britannic Majesty's Consul.

"New York, October 23, 1855."

The Undersigned beg to say, that it had been publicly announced in New York papers again and again, that the vessel was building for them; she was publicly advertised in their name; insurance had been done upon her to a large amount in Wall-street; the deponents Cornell and Craft are well known to the builders, are accustomed to be in their yard almost daily, and it is impossible to resist the conviction, that to them at least it was known for whom she was preparing for sea.

They respectfully ask, then, if the evidence upon which the complaint is founded should be weighed against the character and standing of respectable and responsible men, if it was of a nature to warrant so extreme a measure without the most rigid inquiry in a proper direction, and, when shown to be utterly worthless, whether the apology of Mr. Barclay was of that prompt and ample character which one honourable man should delight to make to another whose reputation he has unwittingly, unjustly called in question?

(Signed) A. A. LOW & BROTHERS,
By A. A. Low.

No. 22.

City and County of New York, ss.

John N. Cornell, Policeman of the Eleventh District of this city, acting as Dockmaster, being duly sworn, doth depose and say: That in September last he was applied to, by the person acting as mate of the three-masted schooner or ship "Maury," then launched about one week from the ship-yard of Roosevelt, Joice and Company, to give said vessel a berth at the foot of Stanton-street, East river. That this deponent gave said vessel a berth, and was in the habit of seeing her every day, whilst she lay at that berth. This deponent further says, his particular attention was called to said vessel by some cartmen telling him that they had seen cannon going on board, and asked this deponent if he knew what it meant. This deponent was then invited by the mate to go on board, which he did, and was shown by the said mate several cannon in the hold, and some small arms in the cabin, and said mate at the same time remarked to mechanics working on board that he supposed there was a vessel of war waiting outside for us, and here was an officer on board (alluding to this deponent) ready to take possession of the vessel. And this deponent further says, that in reply to an

inquiry made of the said mate, he said he had shipped on board the "Maury" to go to the China Seas, but that he had a dammed queer cargo to go there.

And this deponent, from these circumstances, and from what he had seen, had his suspicions excited that all was not right, and so stated in general conversation in his family, and in the presence of his son, John T. Cornell, a law student or clerk in the law office of Charles Edwards, Esq., attorney at law, 35, Pine-street, this city. A few days after this conversation in the family of this deponent, his son told this deponent that his employer, Mr. Edwards, would like to see him, and one or two days thereafter he repaired to the office of said Edwards, and in reply to his inquiries, and at his request, narrated the above circumstances; the said Edwards at the same time telling this deponent that some person, a stranger to him, had made to him similar statements. And this deponent further says that said Edwards stated, that the person who had been his informant told him that it was designed to fit out the "Maury" as a Russian privateer, for the purpose of capturing one of the Cunard English steamers, and asked this deponent to make an affidavit of what he had seen and heard of this vessel, and all other particulars relating to her, or her equipment, but that this deponent should first get some person who was better acquainted with vessels, also to go on board and see what he could, as combative, particularly whether the vessel looked like a vessel of war.

And this deponent further says, that said Edwards told him, that if he, this deponent, could be the means of detecting this movement, and it should turn out that this vessel was being fitted out for such a purpose, that this deponent would receive a large reward. This deponent then returned to the station-house and informed Lieutenant Craft of the circumstance, knowing that said Craft had been a ship-carpenter by profession, and was a judge of vessels. Said Craft consented to go board and look at the "Maury," and did go on board and make examinations. And this deponent further says, that he and said Craft, a few days afterwards, went down to the office of said Charles Edwards, at whose request both this deponent and Craft went to the office of the United States' District Attorney, to make oath to the affidavits in the said premises, which had been previously drawn up by said Edwards in his own office. And this deponent further says, that at the office of the District Attorney he was presented to John McKeon, Esq., to whom he stated the whole matter, and who, after reading this deponent's affidavit, stated that it was very suspicious, and that he thought there was enough to seize the vessel, and informed this deponent that if there could be sufficient evidence obtained to seize the vessel, that this deponent "would make a good thing of it."

And this deponent further says, that about one or two weeks after this, his son, John T., informed him that the owners, Messrs. Low, had explained everything satisfactorily to Mr. Edwards, and that the "Maury" had been allowed to sail.

(Signed) JOHN N. CORNELL.

Sworn before me, this 23rd day of November, 1855.

(Signed) FERNANDO WOOD, Mayor.

William D. Craft, Lieutenant of the 11th District Police, being duly sworn deposes and says, that he is the person alluded to in the deposition above made by John N. Cornell, and that the said deposition is true, of his own knowledge, so far as it refers to this deponent going on board of the "Maury" at his request, and making an affidavit at the office of Mr. Charles Edwards, at the request of said Edwards. And this deponent further says, that his suspicions were somewhat excited as to the character of the "Maury" from her model, her rig, the armament on board, and the general rumour as to Russian privateers.

(Signed) WM. D. CRAFT.

Sworn to this 23rd day of November, 1855, before me,

(Signed) FERNANDO WOOD, Mayor.

No. 59.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, February 1, 1856.

I LOSE no time in forwarding to you a copy of a despatch dated December 28,* from Mr. Marcy to Mr. Buchanan, which was placed by the latter in my hands on the 29th ultimo, and in which the Government of the United States applies for your recall from Washington, and for that of Messrs. Consuls Barclay, Mathew, and Rowcroft from their several posts, on the ground of the part which it alleges was taken by you respectively in the recruiting business.

Her Majesty's Government have not yet been able deliberately to consider this despatch, or to determine upon the course which it will be proper for them to adopt. But in case it should be decided not to return an immediate answer, it would be very desirable that before the answer is drawn up, your comments upon the statements in Mr. Marcy's despatch should be in the possession of Her Majesty's Government; and I have accordingly to instruct you to furnish me as soon as possible with such observations as you may have to offer thereupon.

I am, &c.

(Signed) CLARENDON.

No. 60.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, February 8, 1856.

MR. BUCHANAN asked me on the 6th instant whether I had sent any answer through you to Mr. Marcy's despatch of the 28th of December.

I told Mr. Buchanan that Her Majesty's Government had thought it due to themselves, as well as to the Government of the United States, not to take any decision on the subject of that despatch, and consequently not to answer the despatch itself, until they had received your observations upon the statements it contained; and it had accordingly been transmitted to you for that purpose by the last mail. Some time might therefore elapse before an answer was sent, which I hoped would not be of material importance; although, I added laughing, if you are in a hurry for a diplomatic rupture with us, I suppose that Mr. Crampton will in the meanwhile receive his passports.

Mr. Buchanan, in the same friendly tone, inquired if I really thought that the President or Mr. Marcy wished for a rupture of any kind with England; and I expressed my entire conviction that they did not, and that they took precisely the same view as Her Majesty's Government of the suicidal folly of a war between two countries so deeply interested in cultivating the most friendly relations with each other; but I by no means felt so sure with respect to all the members of the President's Cabinet, or that the United States' Government would take the same means as Her Majesty's Government would take to avert an event which both alike deprecated. My reason for saying this was, that the Attorney-General had made use of his official position in order to publish portions of despatches, which had come to his knowledge as a member of the Cabinet, in his instructions to the United States' District Attorney at Philadelphia, manifestly for no other object than to inflame the public mind against England and against the English Government, a few days before the trial of Hertz at Philadelphia took place. Now I did not know what the opinion of the President nor of the other members of the Cabinet was upon this proceeding of the Attorney-General, though we had no reason to think it had been disapproved—it certainly had not been disavowed; but what I did know for certain was, that if any member of Her Majesty's Government had been so unmindful of his duty towards his country and his colleagues as not only to make a public use of the despatches which had come confidentially into his hands, but to do so for the purpose of exciting ill-will on the part of the people of England against the Government and people of the United States, the Cabinet Minister so

* No. 58.

offending would either have been compelled to resign his office instantly, or all his colleagues would have resigned theirs. The country would have expected this of him, and would not have been satisfied with any other course; but as nothing of the kind had taken place in reprobation of the Attorney-General's proceeding, I must be permitted to think that more regard was exhibited here than in the United States for the maintenance of peaceful relations between the two countries.

I am, &c.
(Signed) CLARENDON.

No. 61.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, February 8, 1856.

WITH reference to my despatch of the 1st instant, inclosing, for your observations, a copy of a despatch from Mr. Marcy of the 28th of December, on the subject of the recruitment, which had been communicated to me by Mr. Buchanan on the 29th of January, I have further to state that, although I conclude you will have informed Her Majesty's Consuls whose recall is demanded by the Government of the United States, of the accusations brought against them, yet, in case you should not have done so, it is my wish that you should immediately communicate with them on this subject, so that they may have an opportunity of replying to the charges.

I inclose you three further copies of the despatch, which you may forward, confidentially, to the Consuls in question, with directions, however, to return the paper to you, with their observations, as soon as possible.

I am, &c.
(Signed) CLARENDON.

No. 62.

Mr. Buchanan to the Earl of Clarendon.—(Received February 16.)

Legation of the United States,

My Lord,

London, February 16, 1856.

CONSIDERING what has been said in the two Houses of Parliament in relation to myself, in advance of the publication of the correspondence between the two Governments on the Recruitment Question, I have deemed it a duty to communicate to your Lordship, as you are the only individual in this country to whom I could make such a communication with propriety, an extract from my despatch of Tuesday last, the 12th instant, to the Secretary of State upon this subject, which was transmitted to Washington on Wednesday by the steamer "Arago," from Southampton.

Yours, very respectfully,
(Signed) JAMES BUCHANAN.

Inclosure in No. 62.

Mr. Buchanan to Mr. Marcy.

Legation of the United States,

(Extract.)

London, February 12, 1856.

I WAS somewhat surprised at the broad statement made by Lord Palmerston in the House of Commons on Friday night last (*vide* "The Times" of Saturday morning,) "That when the communication to which I have referred (that contained in Lord Clarendon's note to me of the 16th of July last) was made to the American Minister in London, he expressed himself satisfied with the explanation, and said that he felt confident that his Government would entertain a similar feeling in regard to it."

Fortunately the expression, and the only expression, verbal or written which I employed upon the occasion, is contained in my note to Lord Clarendon of the 18th of July, acknowledging the receipt of his note of the 16th, and is in the following language: "And the Undersigned will have much satisfaction in transmitting a copy of his Lordship's note to the Secretary of State by the next steamer."

From this you will perceive that I made no allusion whatever to what might be the opinion of my Government in regard to Lord Clarendon's note, nor did I express any opinion of my own, except what might have been inferred from the statement, that I would have much satisfaction in transmitting a copy of this note to the Secretary of State.

I have never had any conversation at any time with Lord Palmerston on the subject; and the matter thus rested between Lord Clarendon and myself until after the 24th of September, on which day I received your despatch No. 107 of the 8th of September, with the documents implicating Mr. Crampton in the Recruitment Question. From this despatch I learned that you had resolved to conduct the subsequent correspondence yourself directly with Mr. Crampton at Washington, and this on account of his personal complicity in the affair.

Under these circumstances, I had no occasion of sufficient importance to see Lord Clarendon from the 24th of September until the 29th of October, this being a season of the year when, according to the current phrase, "everybody is out of town," and all public business is suspended, except in urgent cases.

On the 29th of October I called upon his Lordship, by appointment, for the purpose of bringing to his serious attention the question of sending a British fleet to Bermuda and Jamaica; and on this first opportunity which had presented, I informed him, "That, when in acknowledging the receipt of his note to me (of the 16th of July) on the subject of enlistments, I had expressed the satisfaction I should feel in forwarding it to Washington, I had not the most distant idea that Mr. Crampton was implicated in these enlistments," &c. (*Vide* my despatch No. 98 of the 30th of October.)

Again, at an interview with his Lordship on the 1st of November, I employed substantially the same language, adding thereto, that I was "sorry to say, satisfactory proof existed that Mr. Crampton and other British officers had before and since (the date of his note of the 16th of July) been engaged in aiding and countenancing these proceedings and recruitments," &c. (*Vide* my despatch of the 2nd of November.)

I need scarcely refer to my recent despatch No. 117 of the 1st instant, wherein I reported to you the correction I had made in conversation with Lord Clarendon of the statement contained in his despatch to Mr. Crampton of the 16th November, because he had omitted from his statement the qualification which I made at the time, that when I had received his note of the 15th July, I had not the least idea of Mr. Crampton's complicity in the business of recruiting.

Had Lord Palmerston, therefore, been careful to consult accuracy, he would have said: "When the communication to which I have referred was made to the American Minister in London, he expressed the satisfaction he would have in communicating it to his Government; but having subsequently learned that the British Minister at Washington was implicated in the transaction, he informed Lord Clarendon more than once that he did not know that fact when he expressed this satisfaction."

No. 63.

The Earl of Clarendon to Mr. Buchanan.

Sir,

Foreign Office, February 20, 1856.

I HAVE the honour to acknowledge the receipt of your letter of the 16th instant, inclosing a copy of a despatch which you had addressed to your Government on the 12th instant, with reference to a statement made by Viscount Palmerston on Friday, the 8th instant, "that when the communication to which I have referred (that contained in my note to you of the 16th of July) was made to the American Minister in London, he expressed himself satisfied with the

explanation, and said that he felt confident that his Government would entertain a similar feeling in regard to it."

I have not failed to communicate your letter and its inclosure to Viscount Palmerston, who has requested me to state to you, in reply, that he should feel much regret if he had unintentionally misrepresented the tenour of any communication which you had made to Her Majesty's Government; but it seems to him that there is no essential difference between the substance and the effect of what he said in the House of Commons, and the statement which you now make in regard to the same point.

Although it appears that he did not correctly quote the words you had used, Viscount Palmerston said in the House of Commons that you had expressed yourself satisfied with my note of the 16th of July, and that you had expressed your expectation that your Government would be so also. You say that you only said that you had much satisfaction in transmitting to the United States' Government a copy of my note: I cannot but think, however, that this comes to the same meaning; because you could not have felt much satisfaction in transmitting a copy of that note, if that note had not appeared to you to be satisfactory, and if you had not expected that it would have been so considered by your Government also.

Viscount Palmerston, moreover, with reference to that part of your despatch to Mr. Marcy which adverts to your communication to me in October last, would beg to observe that the accuracy of his statement as to the impression produced upon your mind in July, by my note of the 16th of that month, cannot be affected by the tenour of your statement to me three months afterwards, on the 29th of October, founded upon communications, whether correct or incorrect, which you had then recently received from Washington.

Viscount Palmerston adds, that he would be much obliged to you, if you will have the goodness to transmit to your Government a copy of this explanation on his part.

With reference to a passage in your despatch to Mr. Marcy as to the suspension of public business in the autumn, when "everybody is out of town," I beg leave to observe, that with the exception of a few days when I was in attendance on the Queen, during Her Majesty's visit to Paris, I was accessible during the whole of the autumn to any of the Representatives of foreign Powers who wished to see me, being invariably in the habit of coming to the Foreign Office for several days in each week, from my country seat, only a few miles from London.

I am, &c.
(Signed) CLARENDON.

No. 64.

Mr. Buchanan to the Earl of Clarendon.—(Received February 22.)

My Lord,
*Legation of the United States,
London, February 22, 1856.*

I HAVE the honour to acknowledge the receipt of your note of the 20th instant, in answer to mine of the 16th, inclosing to your Lordship the copy of part of a despatch addressed by me to my Government on the 12th instant; and I shall have much satisfaction in complying with the request of Viscount Palmerston, and transmitting a copy of this note to the Secretary of State by to-morrow's steamer.

Your Lordship's note, I am happy to observe, proves that we are entirely agreed upon the facts of the case; and I am quite willing to leave, without further comment, the difference of opinion between Viscount Palmerston and myself, on the question as to whether the expression that I should have much satisfaction in transmitting a copy of your note of the 16th of July last to the Secretary of State, justified the statement of his Lordship in the House of Commons, that I had expressed myself satisfied with the explanation contained in that note, and said I felt confident my Government would entertain a similar feeling in regard to it.

So, in like manner, am I willing to leave, without further comment, the question whether it was altogether just to myself in Viscount Palmerston, whilst

prominently presenting his construction of what I had written in July, to be entirely silent in regard to my communication to you in October, thus unintentionally, I have no doubt, creating the impression on his audience that my opinion still remains unchanged, notwithstanding the information I had received in September, and communicated to you at our next interview thereafter, respecting Mr. Crampton's complicity in the recruitment of soldiers for the British army within the territory of the United States.

But I am not willing to leave, without further explanation, your Lordship's notice of the reason which I assigned for not asking an interview with you in October. I did not doubt for a moment that if I had requested such an interview, even at that season of recreation, it would have been promptly granted; and this I should have done had my business been of an urgent character. And I am glad to avail myself of the present occasion to express to you my grateful sense of your uniform attention to all my requests, and of your invariable courtesy and kindness; these have made an impression upon me which will be enduring.

Yours very respectfully,
(Signed) JAMES BUCHANAN.

No. 65.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, February 22, 1856.

I TRANSMIT to you herewith, for your information, copies of a correspondence* which I have had with the United States' Minister at this Court relative to a statement made by Viscount Palmerston on the 15th instant, in the House of Commons, as to the satisfaction expressed by Mr. Buchanan with the explanation given in my letter of the 16th of July last on the subject of the Recruiting Question.

I am, &c.
(Signed) CLARENDON.

P.S.—I inclose also a copy of a further letter† from Mr. Buchanan, acknowledging the receipt of my answer to his note of the 16th instant, a copy of which he states he will transmit to his Government by to-morrow's steamer.

No. 66.

The Earl of Clarendon to Mr. Buchanan.

Sir,

Foreign Office, March 3, 1856.

I HAVE the honour to acknowledge the receipt of your further letter of the 22nd ultimo, respecting Viscount Palmerston's language in the House of Commons on the subject of the communication with regard to the Recruiting Question which you addressed to me on the 18th of July, in reply to my letter of the 16th of that month.

I have communicated your letter to Viscount Palmerston, who has observed upon it that you are mistaken in supposing that he made no mention of your communication on the same subject in October last, for he distinctly stated that, in the autumn and a considerable time after your communication of July, the United States' Government had reopened the matter, which Her Majesty's Government had been led to believe had been closed in a satisfactory manner by my letter of the 16th of July.

I beg to thank you for your kind expressions towards myself, and to assure you that I shall always look back with sincere satisfaction to the friendly and agreeable relations which have subsisted between us during your residence in England.

I am, &c.
(Signed) CLARENDON.

No. 67.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, March 4, 1856.

I TRANSMIT to you herewith, for your information, a copy of the answer* which I have returned to Mr. Buchanan's letter of the 22nd ultimo, on the subject of a statement made by Viscount Palmerston in the House of Commons with reference to the Recruiting Question, a copy of which letter was inclosed in my despatch of the 20th ultimo.

I am, &c.

(Signed) CLARENDON.

No. 68.

*Mr. Buchanan to the Earl of Clarendon.—(Received March 10.)**Legation of the United States,*

My Lord,

London, March 10, 1856.

I HAVE the honour to acknowledge the receipt of your note of the 3rd instant, on which I beg to make a single remark.

I am content that my note to your Lordship of the 22nd ultimo shall speak for itself. It relates to myself personally, and not, in the slightest degree, to the conduct of my Government. For this reason, justice to them requires I should state that they never "reopened," because they never had closed, the Recruitment Question; neither did they, to my knowledge, at any period express their satisfaction with your Lordship's note of the 16th July, nor did I ever say or intimate on any occasion that they had been thus satisfied.

Yours very respectfully,

(Signed) JAMES BUCHANAN.

No. 69.

Mr. Crampton to the Earl of Clarendon.—(Received March 11.)

(Extract.)

Washington, February 22, 1856.

YOUR despatches of the 1st only arrived here to-day, which does not give as much time as would be required for answering them fully by the next packet.

With regard to my proceedings with Mr. Marcy, although I cannot, by the present packet, recapitulate them in a despatch, a full account of them will be found in the historical summary which I sent you on the 27th of November last.

I told him that I utterly opposed and discountenanced any violation of the Neutrality Law.

I also told him that numerous applications were made to me by persons here wishing to join our army, and that my answer had been that I could not enlist them here, and that if they wanted to become British soldiers they must go to British territory to be enlisted. He made no sort of objection to this, and entered into no discussion as to its being inconsistent with International Law; on the contrary, he said that anybody might go who chose,—“that half the United States might go if they chose,” were, I think, his very words; and he repeated the same thing to Mr. Lumley during my absence.

I certainly, never dreaming then, as I do not believe now, that any violation of international law was involved, so long as the Municipal Law was observed, did not enter into any discussion of such a question with him. He did not show the least inclination to enter on the subject of the recruitment at all; and I thought that I understood his motive to be the natural one, that having, on the one hand, shown a determination to sustain the law, and, on the other, a disposition to leave every citizen or resident of the United States free to exercise their undoubted right, or

not, as they chose, he did not wish to seem to take part, either one way or the other, in either recommending or discouraging them from doing so in favour of either of the belligerents.

No. 70.

The Earl of Clarendon to Mr. Buchanan.

Sir,

Foreign Office, March 15, 1856.

I HAVE the honour to acknowledge the receipt of your letter of the 10th instant, stating with reference to my letter of the 3rd, that your Government never "reopened," because they never had closed, the Recruitment Question; neither did they, to your knowledge, at any period express their satisfaction with my note of the 16th of July, nor did you ever say or intimate on any occasion that they had been thus satisfied.

I am, &c.
(Signed) CLARENDON.

No. 71.

Mr. Crampton to the Earl of Clarendon.—(Received March 18.)

(Extract.)

Washington, March 3, 1856.

A DEBATE took place in the United States' Senate on the resolution offered by Mr. Mason, the Chairman of the Committee for Foreign Affairs, calling for the correspondence which has taken place between Her Majesty's Government and the Government of the United States on the Enlistment Question.

The necessity for the production of these papers was stated, in the course of the debate, to have arisen in consequence of the erroneous impression which might be produced by the reference made to the question by your Lordship in Parliament—totally ignoring the effect that has been produced on the public mind ever since the month of September last by the one-sided American view of the case which has been presented to the world, by the extraordinary proceedings of the Law Officers in the trial of Hertz at Philadelphia, and the publication of the report of that trial, as well as by the statement made by the President in referring to the subject in his Annual Message.

The considerations which induced your Lordship to delay the production of the papers relating to this question, and the declaration of Lord Palmerston in the House of Commons on the 8th ultimo, "that it would not be fair to the American Government to omit from the correspondence the last paper which they had sent on the subject, while, on the other hand, it would not be fair to the British Government to give that statement without giving also the reply to it," have, I regret to say, not had the same weight with the Executive of the United States, who, in accordance with the request made by the resolution alluded to, have communicated the whole of the documents, Mr. Marcy's despatch of the 28th of December included, to the Senate of the United States.

I have the honour herewith to transmit these papers to your Lordship.*

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 72.

Mr. Crampton to the Earl of Clarendon.—(Received March 18.)

(Extract.)

Washington, March 3, 1856.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 1st ultimo, forwarding to me the copy of a despatch dated the 28th of December last, from Mr. Marcy to Mr. Buchanan, a copy of which was placed

* See Inclosure in No. 81.

in your Lordship's hands by that Minister on the 29th of January last, and in which the Government of the United States applies for my recall from Washington, and for that of Messrs. Consuls Barclay, Mathew, and Rowcroft from their several posts, on the ground of the part which it states was taken by us respectively in the alleged illegal recruitment within the United States of soldiers for Her Majesty's service.

Your Lordship desires that my comments upon the statements in Mr. Marcy's despatch should be in the possession of Her Majesty's Government before their answer to that despatch is drawn up, and does me the honour to instruct me to furnish your Lordship, as soon as possible, with such observations as I may have to offer thereupon.

It is with much satisfaction that I proceed to comply with your Lordship's direction; it is with much satisfaction that I now avail myself of the only fitting opportunity which has been afforded to me of replying to some, at least, of a series of charges against me and others of Her Majesty's public servants which the United States' Government has thought proper long since to bring before the public indirectly, and in such a manner as rendered it impossible for me to meet them effectually, consistently with the exigencies of the somewhat exceptional position of a diplomatic functionary in a foreign country.

It is in consequence of this unusual course of the United States' Government, that I have been so long deprived of the opportunity which is afforded to the meanest accused persons to defend themselves.

It may seem strange that the Representative of the British Government in this country should be placed in a position more disadvantageous than would have been that of any citizen of the United States, or any other sojourner therein; that he, as well as the Government he represents, should be subjected to the public obloquy and vituperation which naturally follow upon an *ex parte* charge of an offence assumed to be proved because not replied to; yet so it is. The charges brought forward distinctly and in detail against myself and Her Majesty's Consuls at the trial of Hertz at Philadelphia, many months ago, in a public Court of Justice to which I was not amenable, and where, consequently, I could not be admitted to disprove them, were, in the diplomatic communications of the Government of the United States to Her Majesty's Government, where I could have replied to and refuted them, only generally indicated, without any statement of their specific nature, or as to where or by whom they were made. The United States' Government contented itself with stating that it believed them.

These same charges, together with some other matters, have however now been reproduced officially, and brought through the proper channel under the attention of Her Majesty's Government; and it will, of course, be my duty to meet them as best I may. But I must observe that the accusers in this case have had the use of all the means and appliances of a judicial investigation, while the accused have been deprived of judicial means of defence, and are therefore placed at a great disadvantage.

With the very imperfect means at my command I do not, however, doubt of being able to disprove, to the satisfaction of any unprejudiced person, the facts by which it is sought to implicate me in an infraction of the Neutrality Law of the United States.

With regard to the charge of disrespect to the Government to which I am accredited, by some act or acts which were not infringements of the Neutrality Law, I have only to hope that, in the first place, my word may be taken that I entertained no such disrespect; and that, in the second, if I have violated international law, which I contend I have not, it was because I did not think (nor do I now believe) that the doctrine *now* put forward by the United States on the subject is a sound or a recognized doctrine, applicable to the case; and because, moreover, I was not aware that it was held to be so by the Government of the United States itself at the time the alleged violation took place. However erroneous, therefore, the Government of the United States may believe my opinion to be, I cannot but hope that they will acquit me of any *intentional* disregard either of the sovereign rights or of the policy of this country.

Before applying myself, however, to an examination of the specific charges now brought forward, it will be necessary, for a proper understanding of the motives of such acts as I may have done or abstained from doing, that I should state to your Lordship my own views upon the subject of recruitment in a

foreign country generally, and of the bearing of the United States' Neutrality Law, as well as of the Law of Nations, on the subject in particular. For to try acts done under the guidance of one rule of conduct by applying to them the test of a different rule of conduct could clearly serve no other purpose than to perpetuate discussion, and to enlarge instead of contracting the field of debate.

It is only by each party stating with candour the views and opinions under the influence of which they have acted that the field of controversy can be narrowed, by its being thus ascertained where the parties really differ, and where they agree.

Should the views and opinions upon which I acted be found to be erroneous, the question will be so far settled: for all my acts done in consequence will more or less partake of the error in which they originated. On the contrary, should the principles by which I was guided be correct, the acts emanating from them could scarcely fail to be so.

I entirely concur in the opinion expressed by Mr. Marcy in his despatch now under consideration, that the best way of increasing the probability of an amicable adjustment of the present difficulties is to narrow the ground of the discussion by clearly ascertaining the debateable ground; by defining the rights of the United States on the one hand, and by ascertaining the precise limits of the British pretensions on the other.

Mr. Marcy does not, however, appear to me to have done this successfully or correctly. It is true that in the concluding part of his despatch he sums up what he believes to be the American doctrine by giving a very broad and sweeping interpretation of the construction of the Neutrality Law. But he seems throughout the whole of his argument to have misunderstood the precise limits of the British pretensions as I understand them, inasmuch as he designates those pretensions and those acts throughout, and whenever he alludes to them, without distinction, as amounting to the assertion of a right to *raise soldiers within the United States, to recruit within the United States, to carry on a scheme of recruitment within the United States, &c., &c.*

As these expressions appear to me to beg the whole question in dispute between the two Governments, and not at all to conform with the notion of the matter which I myself entertained and acted upon, it will be necessary that I should state fully and with perfect candour my view of the matter, and thus endeavour to mark out more correctly than Mr. Marcy has done the limits of the debateable ground which he very properly wishes to ascertain.

By ascertaining what really are the points upon which there is an agreement of opinion, as well as those in regard to which opposing views have been and are entertained, a solution of the question may be approached, or at least the discussion may be made to turn upon the point or points which are really in dispute.

The question, then, as regards the *principle* applicable to the matter seems to me to be resolvable into two branches:

1. That which regards the Municipal Law of the United States.
2. That which regards the general Law of Nations.

With regard to the first, it is evident that there is no difference of opinion as to the principle. Each party believes that the Neutrality Law should be strictly observed. The only difference of opinion which can have arisen must be as to how far the acts complained of have or have not been conformable to that Law.

As regards the second branch of the subject, viz., the bearing of the general Law of Nations on the matter, there is a decided difference of opinion between the two Governments; and I myself undoubtedly acted under an impression different from that which has been expressed by Mr. Marcy in his present despatch, as well as in his note of the 5th of September. The difference of opinion as to matters of fact regards the truth or falsehood of certain allegations against public servants of the British Government, which, if established, would go to prove that they have in fact wilfully *violated* the obligations of a law which they and their Government admit to be binding.

The difference of opinion between the two Governments therefore are—

First. As to whether the Law of Nations enforced upon the British Government any obligation broader than that embodied in the Municipal Law upon the subject.

And secondly, whether the acts of British Agents acting under the instruc-

tions of their Government, or on their own individual responsibility, violated the Municipal Law.

My own view of the subject, and that on which I acted was, and is, that there was no other obligation to be observed, or other restraint placed upon my action in carrying out the wishes of Her Majesty's Government than those contained in the Municipal Law of 1818.

I will briefly state the grounds of that belief.

It did not appear to me to be a thing to be supposed that any free nation intended to enforce, as a restraint upon the liberty of its inhabitants, any more of the general Law of Nations than it had embodied in its Municipal Law.

That Municipal Law appeared to me to have been enacted for the very purpose of defining and deciding how much of the general right of restraining the egress of its citizens from its territory the lawgiver intended to enforce.

I did not expect that any foreign Government would be called upon to observe more than what was thus defined, or that any foreign Government could be inculpated for availing itself of the legal acts of the citizens of another country.

I was perfectly well aware that nations can without any violation of the *jus gentium* enact, and call on other nations to observe, much more stringent regulations in regard to the egress or ingress of their own people, or foreigners, from or into their territories, than those of the present Municipal Law of the United States.

Russia has done so—certain States of this Union have done so in regard to a part of their population. I should certainly have been prepared to expect that any attempts to induce a Russian serf or an American negro slave to leave the territory of their respective countries would be regarded as a violation of right and a disrespect to the policy of Russia and of a slaveholding State of the Union.

But I was not prepared to find it maintained that any other restriction was placed on the action of the free citizens of the United States than that which their own laws had enacted and defined. And as regards the policy of the United States which, in consequence of this opinion, I am charged with not respecting, I conceived the very essence of that policy to be, the freedom of its citizens from all restrictions not previously defined by law; and, moreover, that the policy of the laws themselves, the *lex legum*, was to leave the citizen the largest liberty of action possible, consistent with the national safety. I was therefore not only unprepared to find any other obstacles to the wishes of those individuals who wished to join our standard, than those opposed by the Municipal Statute Law, but I imagined that that law would receive the interpretation most favouring the liberty of the citizen and not an interpretation which would reduce his free action within narrow limits.

Such was my opinion, and I was ignorant till the 5th of September last that the Government of the United States entertained any other.

No other was put forward to me in writing or in conversation by Mr. Marcy or by anybody else.

I told Mr. Marcy on the 22nd of March that numerous applications had been made to me by persons in this country who wished to join the British army, and that my answer had been that I could not enlist them here or hire or retain them here without violating the law, and that consequently they must go into British territory, there to be enlisted.

Mr. Marcy made no objection to this, but remarked that any person might go who chose, and then reiterated the expression he had just before used, of his intention strictly to enforce the Neutrality Law.

To this I, on my part, had no objection to make; on the contrary, the view it disclosed entirely agreed with that I had myself submitted to Mr. Marcy, on showing him a letter I had written to Mr. Barclay disapproving of the proceedings of a Mr. Angus Mc Donald, *because* I thought that those proceedings would or might be taken to constitute a violation of the Act of 1818.

It was natural that entertaining the opinion I have above expressed as to the bearing of international law on the subject, I should not enter upon any further discussion of the matter with Mr. Marcy. I can scarcely take blame to myself for not so doing. But that Mr. Marcy, then entertaining the opinions

which he has since expressed, should have made no allusion to them, I own, surprises me.

I entirely agree with him that it was unfortunate that the matter was not mentioned, and the difference of our views brought to light. I should not have concurred with his opinion; but I should have thought it matter for grave consideration whether it would not have been better for Her Majesty's Government at once to abandon all idea of accepting aid in soldiers from this country than to run the risk of any difference or unpleasant discussion *whatever* with the Government of the United States.

If I misunderstood Mr. Marcy's remarks on the occasion in question—the only one on which the matter was mentioned by him at all before the 5th of September—I can only say that I deeply regret it. I am happy to say that the terms of our intercourse were such that any subject upon which we should even differ widely in opinion would have been discussed in the most amiable spirit.

When Mr. Lumley, during my absence in Canada and Nova Scotia, spoke to Mr. Marcy on the same subject, Mr. Lumley's impression as to Mr. Marcy's view of the matter was exactly similar to that which I had gathered from my own interview with Mr. Marcy.

It is perfectly true that I did not enter into any details of the means which were to be adopted by Her Majesty's Government to render available the services of those who tendered them to us in such numbers. There seemed to be obvious reasons for abstaining from this even if it had occurred to me. I should have been unwilling to do anything which might have borne the appearance of engaging Mr. Marcy in any expression of favour or approbation of a plan favouring the interests of one of the parties in the present war.

All I could desire on his part was neutrality and impartiality.

With regard to the general principle of the Law of Nations to which Mr. Marcy appeals, as laid down by competent authorities, the quotations made by him do not appear to me to be by any means conclusive. He cites Wolfius, through the medium of a translation from the original work in Latin, as laying down the principle that "it is not permitted to one nation to *raise soldiers* on the territory of another without the consent of the Sovereign."

Although no reference to the passage is given by Mr. Marcy, it may be found in Wolfius "*Institutiones Juris Naturæ et Gentium*," vol. vi, chap 7, sec. 1174, and the words are these, "in territorio alieno sine consensu domini territorii militem *conscribere* non licet;" "*conscribere*" being literally "to enlist."

I apprehend there is no difference of opinion here. Enlisting soldiers within a territory is that which Her Majesty's Government maintain has not with their consent been done, and which the Municipal Law equally forbids.

Mr. Marcy then cites Vattel, who says that the man who undertakes to enlist soldiers in a foreign country without the Sovereign's permission, violates one of the most sacred rights of the Prince and nation.

There is equally no difference of opinion here; but when Mr. Marcy proceeds to quote Vattel as saying "*in general whoever entices away the subjects of another State also violates that right*," it is necessary to examine the original of the passage a little more closely; for it is evident that Mr. Marcy relies upon it in support of what he, towards the close of his despatch, lays down as the doctrine maintained by the American Government, viz., that "in every instance when a person, whether a citizen or a foreign resident within the United States, has been *brought to a determination* to leave this country (the United States) for the purpose of entering a foreign service as a soldier, by any inducement offered by *recruiting* agents here, the law of the United States has been violated."

The passage in the original (Vattel, *Droit des Gens*, liv. iii, chap. ii, § 15) is as follows:—"Ceux qui entreprennent d'engager des soldats en pays étranger sans la permission du Souverain, et *en général quiconque débauche* les sujets d'autrui, viole un des droits les plus sacrés du Prince et de la nation. C'est le crime que l'on appelle *plagiat* (in Latin *plagium*) ou vol d'homme."

Now the word "débaucher" is not properly rendered by "enticing away." It means even in its ordinary sense something more than that; but Vattel himself explains the sense in which he uses it, viz., as equivalent "plagiat" (which can only be translated by the word "kidnapping"):—"Plagium dicitur surreptio hominis, qui alterius cujusdam potestati subjectus est." (Wolfius, vol. vi, § 1,175.)

Will Mr. Marcy contend that a citizen of the United States has been kidnapped when he has been "*brought to a determination* by any inducement to leave this country for the purpose of entering into a foreign service:?" surely no free citizen of the United States is "*alterius cujusdam potestati subjectus*."

In that case I think I should not be at a loss to point out to him several highly educated medical men and accomplished engineers who have been "kidnapped" from this country by the Russian Government.

I may here observe that Her Majesty's Government did not and had no need to entice anybody from the United States.

The numerous letters which were addressed to Her Majesty's Legation and Consulates by persons voluntarily offering their services will prove this. I have transmitted a great number of them to your Lordship, and I would suggest that copies of them should be appended to my present despatch.

Mr. Marcy, in using the word "recruiting" agents in the above passage of his despatch, again begs the question in dispute.

An agent is not a recruiting agent unless he *recruits*, and an agent or individual may bring a person to a *determination* to do what it is a lawful act to do, without committing any offence by so doing, unless he uses illegal means for the purpose; or, in other words, applicable to the present case, unless he brings him to the determination by *hiring* or *retaining* him, which it is denied that any person was authorized by the British Government to do.

It is not for me to presume how far these views may exactly coincide with those of Her Majesty's Government, but I state them as my own, in order to show that I acted in good faith, and without intention of violating the Law of Nations in regard to this country, or of failing in respect to its policy. If I am in error, I am quite ready to take the consequences of my own mistake, whatever they may be.

So much for the general principles on which I acted and the views which I entertained; differing, I admit, and regret it, from those now put forward by the United States' Government, but still sincerely entertained and acted upon, and therefore without intentional slight or disregard of other opinions and views which I did not know were held by this Government.

I will now proceed to examine the charges which have been brought against me and Her Majesty's officers implying a knowing and wilful violation of the law, as that law is acknowledged by Her Majesty's Government and myself.

The Attorney-General of the United States has acknowledged, nay, he has proclaimed, that the proceedings in the trial of Hertz were, in reality, directed against Her Majesty's Consuls and myself; yet he was aware that I could not, and he was determined that they should not appear in their own defence.

The offence thus charged against us amounts to a *misdemeanour*.

Prosecutions for misdemeanour by the State, whether by indictment or information, are subject in this country, as in England, to certain regulations, providing that the defendants shall have copies of the indictment or information, and a list of the witnesses, as well as other legal safeguards.

Now, Her Majesty's Consuls and myself have stood in the position of defendants in this case, and I would beg to ask Mr. Attorney-General Cushing whether we had the benefit of any of the means of defence which the law allows to persons charged with misdemeanour?

It might be answered in my own case that it was clearly impossible they should be afforded, as I was not amenable to the Court. But does it therefore follow that I was to be precluded from every means of dealing with the charges made against me? Is a Government which may think it has reason to complain of the conduct of a foreign Minister accredited to it reduced to the necessity of choosing whether it shall proceed against him unfairly or not proceed against him at all? Because he cannot be legally accused in person, must the odious process of indirect inculcation through the means of witnesses brought forward at the public trials of other persons be resorted to? This is certainly not consistent either with justice or with international courtesy.

The Representative of a friendly Power has surely a right to expect that some weight should be attached to his own personal assurances or explanations, and should these be thought unsatisfactory, the complaining party might make his conduct the subject of a complaint against him to the Government he repre-

sents, but this should be done through the diplomatic channels, and without, at the same time, making appeal to the passions of the public.

But what has been the course of the United States' Government in the present case? A note was addressed to me, in which general charges were made of offences against the Law of Nations as well as the Municipal Law, in which I was said to be implicated, without any specification either of time or place; "disclosures" were mentioned without its being stated who were the disclosers; "developments" were spoken of as impending without any indication of where and when they were to take place; and it was pretty plainly intimated that unless I and the other officers of Her Majesty's Government were punished by the Government of our own country for these offences, we should be in some way visited by the displeasure of the Government of this.

It was not until the trial of Hertz at Philadelphia had actually taken place that I had the smallest idea of what was intended. Then, indeed, Mr. Attorney-General Cushing's proclamation threw some light upon the matter, and I saw myself and Her Majesty's Consuls held up to public reprobation as "malefactors" (to use Mr. Cushing's own expression), convicted of offences of the nature of which we had not been informed by witnesses suddenly produced as "*States' evidence*" against us in a Court before which I could not plead and before which the Consuls were not allowed to be heard. Whatever may have been the intention of this proceeding of the United States' Government, the effect of it was certain. Her Majesty's public servants in this country, including myself, have been from that time till now treated by the public press as well as in the Legislature as persons *undoubtedly guilty* of every charge which was thus brought against us.

I think, my Lord, that we have some reason to complain of this treatment, as very little in harmony with what might be expected at the hands of, a friendly Power; as showing needless distrust of Her Majesty's Representative and Consuls; and, if I may be permitted to say so, as unmerited by the personal character and reputation of those gentlemen or myself.

Mr. Marcy, as well as the President, I had flattered myself would have felt convinced that, however erroneous they might suppose my views of the Neutrality Laws to be, I should have disdained to shield myself from their consequences by concealment or subterfuge; and that, upon inquiry of me, every act and proceeding of mine would have been frankly communicated to them. It would then have been unnecessary for the Law Officers of the United States to resort to the aid of spies and informers in order to obtain evidence against us. By so doing they have been (as might have been expected) grossly misled; and it will now be my duty to refute, as far as I am able, the misrepresentations and calumnies which have resulted from the ill-conceived method of obtaining information resorted to by the Government of the United States.

Mr. Marcy rests his charges against us on the facts which he assumes to be established by the trial of Hertz at Philadelphia in the month of September last.

Mr. Buchanan has placed in your Lordship's hands what he terms an authentic report of this trial; but I must take a preliminary objection to this, and observe that I cannot accept of this report as either authentic, impartial, or complete. It professes to have been drawn up for the use of a Philadelphia newspaper, called the "*Pennsylvanian*," one of the most furious partizan papers in this country. The editor was examined as a witness for the prosecution, and takes great credit to himself for having brought to light and exposed the British agents in the affair which forms the subject of the trial. For the impartial temper of this gentleman I would refer your Lordship to an article which he published on the 28th of September, on the subject of this very trial. It is headed "*England's weakness and baseness*," and contains such expressions as the following:

"England for centuries has been bullying and bribing the world;" "*Her insolence is astounding*." "*In the Pacific, in the Atlantic, on the Isthmus, everywhere, that haggard voluptuary, Great Britain, who has been so long drunk with the blood of other nations, that she now reels and totters with her own inanity, glares upon us with her red eyeballs, and bids us depart*." "*England is a harlot*"—"a whitened sepulchre." &c., &c. Sir Gaspard le Marchant and myself are "*base conspirators*," and, in the opinion of the editor, "*a disgrace to the Order of the Garter*," to which, he thanks God, "*he, being a simple Republican, does not belong*."

As regards the incompleteness of the report, I would remark that the speech of Mr. Remak, Hertz's counsel, is *omitted*—a circumstance which I shall hereafter show is of more importance than it would at first sight appear.

With respect to the legal regularity and fairness of the proceedings in the case, as well as the authenticity of the report, I would beg of your Lordship to peruse the memorandum which I herewith inclose. It is drawn up at my request by an eminent American lawyer, who was not in possession of the proofs I can produce of the perjury of the witnesses, or of their infamous character.

He examined the proceedings from the point of view of a mere spectator; and his conclusions are drawn from such facts only as came out in the course of the trial as given in the suspicious report in question, for he resorted to no other means of information.

I think this document will convince your Lordship that, when, in a previous despatch, I spoke of the proceedings in the case of the *United States v. Hertz*, as a mock trial, I did not miscalculate.

I would now, in addition to the facts stated in the memorandum, mention some facts within my own knowledge, and others, in regard to which I have some testimony at least as good as that produced on the trial, which, taken together, will, I think, show that it was not only a mock trial, but one instituted for a most unfriendly, not to say malicious, purpose, and is supported by evidence procured in a manner little creditable to those who conducted it.

The evidence to which Mr. Marcy refers as establishing his charges, is partly documentary and partly oral.

The documentary part consists chiefly of notes addressed by me to Strobel and Hertz, and of a paper of instructions which I drew up for the purpose of preventing and not of authorizing a violation of the Neutrality Laws of the United States.

These notes were written in answer to repeated inquiries made to me by the said Strobel and Hertz as to where they and numbers of their friends and countrymen, whom they represented as most eager to enlist in the British service, were to go, in order to be enlisted, and on what terms they would be received.

They presented themselves voluntarily to me for that purpose, and were previously unknown to me. They brought no recommendation or introduction whatever, unless a paper presented by Hertz, stating that he was a Danish subject and signed by the Danish Chargé d'Affaires at Washington, can be considered one.

It has been truly remarked in the memorandum of the trial which I have inclosed that these notes might be used to confirm any other account of the interviews which took place between me, and Hertz, and Strobel, as well as the account which they have given. But I do not seek to conceal that the information they asked for, regarded enlistment in the British army. What, however, is utterly and deliberately false in the statements of these witnesses is, that I countenanced or encouraged them to violate the Neutrality Law.

I read to them both, and explained to them clearly, the passages of the Act of Congress relating to enlistment, and they professed perfectly to understand its provisions, and to make their observance of them a *sine quâ non* in all measures which they or their friends, in whose name they pretended to speak, might take to avail themselves of the offers held out by the British Foreign Enlistment Act.

It would be tedious, even if it were possible, for me to go through the false statements of these men, the one in his evidence as a witness, and the other in his pretended confession, and deny them seriatim. But I deny the truth of every one of them which goes to show, as they are almost all evidently intended and concerted to show, that I *authorized* them to violate the Neutrality Law.

The unskilful effrontery with which the essential points of the evidence of those witnesses are brought forward, would, I hoped, have demonstrated their falsehood. The memorandum has pointed out one instance in which I am made by Strobel to have displayed apparently the greatest anxiety, needlessly to criminate myself by inculcating, in the most distinct manner, on a man of whom I knew nothing, a violation of the law.

I had, at that conversation, clearly stated to Strobel what the law was, in order that he, and those he claimed to represent, might not infringe it. It is

evident that he clearly comprehended it, for, in testifying against me, he knew precisely what would constitute a violation of it. If he had not done so, the United States' District Attorney took good care to put him on the right track.

I should have expected that this would have prevented Mr. Marcy from looking upon such evidence as so fully entitled to belief as to justify his condemning me unheard; and yet I am sorry to see that his general conviction of my delinquency is so strong as to have made him somewhat careless in his references to the particular pieces of evidence on which he relies. For instance, in citing the notes which I addressed to Strobel and Hertz on the 4th of February, 1855, he has inadvertently substituted for the words "more definite information," the words "precise instructions," on the subject alluded to at a previous conversation, which Mr. Marcy thinks he is justified in concluding must have been enlisting *within* the United States.

I would observe that, as a mere matter of evidence, the words as they stand in my notes favour my account of the interviews in question, while those substituted for them by Mr. Marcy in his argument favour the false account given of them by the witnesses on the trial.

And now a word with regard to Mr. Strobel's character, which, Mr. Marcy thinks, being "endorsed" as it was by his being invited to dinner by Sir Gaspard le Marchant *before* his character was known, commands belief.

A person coming forward as "State's evidence," impelled by revenge and disappointment, is, in the first place, neither a very credible or very respectable witness; but when it is shown that the witness had previously offered to the party against whom he deposes to suppress his evidence in consideration of a sum of money, alleging his poverty and the necessity of procuring money elsewhere as a reason for doing what he confesses to be a shameful act, his mere want of respectability becomes infamy, and his testimony becomes nearly worthless. It may be fairly supposed, too, that his services have been *hired* and *retained* on the other side; such an inference is, at least, not more extravagant than any which Mr. Marcy has adopted.

Now, my Lord, I possess and beg to inclose to your Lordship herewith, a letter addressed to me by this Strobel, proposing that I should pay him one hundred pounds in consideration of his abstaining from the "shameful act," as he properly calls it, of committing perjury against me; I inclose also a number of affidavits which would go to show that Mr. Strobel has been hired and retained on the other side—the other side being no less parties than the United States' District Attorney at New York and the Russian Chargé d'Affaires at Washington.

I am perfectly aware that the accuracy of such evidence as those affidavits afford might be objected to as loose in itself, and proceeding from unknown Polish, Hungarian, or German refugees; and I have no hesitation in saying that, if Mr. District Attorney McKeon, on the one hand, and M. Stoeckl, on the other, were to give me their bare word that the facts therein stated were unfounded, I should at once believe them.

But, on the other hand, I should expect to be believed myself when I stated that the evidence of Strobel, Hertz, Burghthal and Reuss, which is of a character infinitely less worthy of belief, should not be considered as convicting me of a charge which I deny.

With respect to the confession of Hertz, I have already stated to your Lordship in my despatch of the 15th of October last, that it is a tissue of falsehoods.

A comparison of the style and composition of the inclosed original letter addressed by Hertz to me with this confession, would show how little likely it is that the latter was written by him.

I can only now add that those parts of it by which he means to show that I authorised, aided, and encouraged him to violate the Neutrality Law, are not only untrue, but are invariably and directly opposite to the truth.

Indeed, what I did tell him in regard to the Neutrality Law and the enlistment, seems to have served him for a guide to the points in regard to which his false statements might be made with most effect. He has followed implicitly the rule of making me say the direct contrary to what I did say on those subjects.

For instance, he says I told him the "Neutrality Law was exceedingly lax,

and that, if anything should happen, the British Government would not allow any one to suffer who had been engaged in assisting them to furnish men." I told him that the Neutrality Law was very stringent, and read it to him, and that, if he or others violated it, the British Government would have nothing to say to them, and that they would have to take the consequences of their own acts. His statement of my giving him my word of honour as a gentleman that nothing disagreeable should happen to him, I presume refers to my having told him that if he set up a recruiting office "on his own hook," as he proposed and afterwards attempted to do, he would render himself liable to three years' imprisonment.

I inclose several affidavits regarding this man's character, as well as a threatening letter addressed by him to this Mission.

The omission in the report of the trial of Mr. Remak's speech in defence of Hertz, to which I have before alluded, is calculated to confirm the suspicion which may well be entertained of the *bond fide* nature of the proceedings. I believe your Lordship will learn from Mr. Consul Mathew that the Judge would have refused to admit in evidence the notes written by me to Hertz and Strobel, as well as the other documentary evidence produced, had its production been objected to by the defendant's counsel. But it was evident that the defendant's counsel, far from wishing to clear his client from the charge made against him, counted only upon obtaining for him a remission or mitigation of the penalty by this Government in consideration of his cooperation in the endeavours of the United States' Attorney-General to fix the guilt of the offence upon Her Majesty's Diplomatic and Consular Agents.

With regard to the other witnesses, Burgthal and Reuss, I have not the slightest recollection of having ever seen the former; I may have done so, however, as many foreigners, whose names I do not remember, have presented themselves at this Mission and made inquiries as to the means of joining our army in the Crimea. That I offered him a Colonel's commission is, I need scarcely tell your Lordship, utterly false. The truth of his statements may be judged by that of the circumstances which he alleges in order to give them an air of probability.

He states that I sent him a telegraphic message from Washington to Baltimore, inviting him to call upon me. I sent him no such message, nor did anybody do so in my name; for I caused a list of all telegraphic messages sent by me from Washington to be furnished to me from the telegraph offices of the Baltimore line, and none such appeared.

He also states that he called at my house some time in March 1855, and found I was out at a dinner at Mr. Marcy's. I was confined to the house from the effects of an accident during the whole of that month.

The witness Reuss, who swears that he had or was present at a conversation with me at Halifax, I never spoke to. He was personally unknown to me until he presented himself at my house, on or about the 13th of August. Without announcement he entered my office, where I happened to be with Mr. Labouchere, then attached to this Mission, and Mr. Consul Mure of New Orleans.

Not knowing who Reuss was, I asked his name and business. He replied, that his name was Reuss, and that he came for an answer to a letter he had left at this Legation a few days before. I told him that I had received a letter signed with that name, threatening to give information against me if I did not comply with his demands for money; containing gross abuse of Sir Gaspard le Marchant; and inclosing a scurrilous article against him extracted from a Nova Scotia newspaper; and also a medical certificate in the German language; and I added that my answer was to request him, Dr. Reuss, to leave my house immediately, and not to attempt to enter it again. I returned him his medical certificate and he went away.

I have the honour to inclose a copy of the letter in question, as well as of another which I have since received from Dr. Reuss, showing that he was and still is animated by feelings of vengeance for some imaginary wrong on the part of Sir Gaspard le Marchant.

I might offer to your Lordship many more observations both upon the nature of the evidence produced at this trial and on the spirit of hostility with which it was conducted.

Whether Mr. Vandyke, the District Attorney who managed the case, much overstepped the bounds within which a lawyer addressing a jury should keep

may, perhaps, admit of a doubt ; but most assuredly his address is marked by an unfriendly feeling towards the British Government and nation.

With regard to those attempts made by Mr. Marcy in his despatch, to argue that certain statements in your Lordship's despatches are contradictory and inconsistent with others therein made, it will be unnecessary for me to offer any remark, except that they are conceived in the same spirit as has actuated attempts of a similar nature made by him to extract from the documents written by myself, to which he refers, a concealed meaning different from the ordinary sense of the language employed.

I will conclude this long, though I fear, imperfect statement of my observations on Mr. Marcy's despatch by adverting to the latter part of it, containing a statement of what I presume to be the main purpose for which it was written ; I mean that of asking Her Majesty's Government to recall me from Washington, and to remove from their posts Her Majesty's Consuls at Cincinnati, Philadelphia, and New York. I have, in compliance with your Lordship's instructions, furnished these gentlemen with copies of Mr. Marcy's despatch, and I shall no doubt shortly be enabled by them to transmit to your Lordship such remarks as they may have to make thereupon.

Inclosure 1 in No. 72.

LIST OF OFFERS to join Her Majesty's Army in the Crimea, or to procure Men for the same, received at Her Majesty's Legation, Washington, 1855.

No.	Date.	Name.	Offer.
	1855		
1	Jan. 8	C. Rumberg	400 German and Swiss soldiers.
2	11	Julius Kuntzel	Volunteer.
3	21	Lewis Drucker	Several hundred men a-week.
4	21	Henry Hertz	To raise recruits.
5	21	Baron von Essen	To serve as officer.
6	Feb. 2	L. E. Grant	Regiment of 436 Riflemen, chiefly British.
7	23	Major Rakow	Recruiting officer.
8	Mar. 5	Henry Hertz	450 Men.
9	7	Count Lanckronski	To raise battalion of Chasseurs, 1,000 strong, disciplined soldiers in four weeks.
10	9	C. Reynolds	Volunteer, offer to recruit large numbers of men in one month.
11	20	J. Dunlop	Artillery officer.
12	22	Lient. T. O. Jones	One or more companies.
13	April 2	C. Reynolds	Request to be sent to Canada.
14	4	C. Reiss	To serve as officer.
15	4	Captain Zankish	Ditto, and to bring Recruits.
16	14	— Aschenfield.	
17	25	K. v. Starstone	Volunteer.
18	26	C. Martin	5,000 Men, chiefly British.
19	May 12	Ditto	Requesting information.
20	28	H. Hertz	Threatening letter.
21	June 11	Perkins.	
22	20	H. B. Wood	Volunteer. American officer.
23	July 6	Madalanski	Battalion Riflemen, 600 strong.
24	Aug. 6	Major-General Ruthven	6,000 Americans for 300,000 <i>l</i> .
25	Sept. 29	F. Cunningham	5,000 ditto, volunteers.

Offers from eighteen American Surgeons.

No. 1.—*Captain Rumberg to Consul Mathew.*

Most esteemed Sir,

Philadelphia, January 8, 1855.

HAVING read in the newspapers that the Government of Great Britain has determined to recruit 20,000 to 30,000 Germans for the war service, I hasten to offer my good services for that purpose. I am editor of the German paper "Philadelphia Democrat," and well known amongst my fellow-country-

men in this city and the neighbouring cities and towns; and I am sure that I can enlist 400 to 500 Germans and Swiss, all able-bodied men, the greater number of whom have been soldiers, if the conditions and terms are reasonable and acceptable. Having been many years in different military services, I have had some experience and acquired some knowledge about the recruiting business. Heretofore I have been Captain in the service of the German Confederation.

Having applied to Mr. Sidney Herbert, the Right Honourable Secretary of War, I direct me to you, most esteemed Sir, and ask you to give me any instruction for further steps I shall take. I assure you most solemnly that I will manage the affair in the most discreet, honest, and fair manner, and in a way that it shall not interfere with the laws and relations of the United States, and taking the whole responsibility of my proceedings upon myself.

Sir, I request you to communicate this letter to his Excellency the Minister and Ambassador of Her Majesty to Washington, and ask you to give me as soon as possible any reply.

Most respectfully,
(Signed) C. RUMBERG, Captain,
City Hotel, Corner of Wood and Fourth Street.

No. 3.—*Mr. Lewis Drucker to Mr. Crampton.*

Sir,

New York, January 21, 1855.

HAVING learned from the English press that the Government of Great Britain intends to enlist foreigners for military service, I beg leave to offer my service for such purpose, believing that the present moment is favourable for accomplishing it, as there are a great number of able-bodied men without employment and the means to sustain themselves who would be willing to enlist, and I have no doubt that I could procure several hundreds every week.

Should your Excellency enter upon my propositions, I desire to be favoured with an answer on the following points:

1. Length of time of engagement, whether for the lasting of the present war or longer;
2. Amount of wages per month;
3. Amount of pay on hand;
4. Place where the men are to be sent;
5. Place where the money can be drawn;
6. Amount of commission awarded to me.

As this matter must necessarily be conducted with great caution and secrecy, it is unavoidable that it should cause larger expenses than usual.

Should your Excellency's answer be favourable to the project and satisfactory, I am going to commence at once.

(Signed) LEWIS DRUCKER.

Answered by Form No. 1.

No. 5.—*Baron von Essen to Mr. Crampton.*

Philadelphia, January 21, 1855.

THE Undersigned, Baron von Essen, formerly First Lieutenant of Cavalry in the Prussian army, having been informed that the English Government is going to enlist an army of foreigners to go to the Crimea, and wishing to take service therein, would like to know whether your Excellency has the power to enlist persons; and if so, you will oblige me by giving me notice, stating the conditions, especially whether I could occupy the same rank that I had in Prussia, and which I am able to prove by the best testimonials; also whether I am to have a free passage to England.

Hoping for a favourable answer, I am, &c.

(Signed)

W. VON ESSEN

Answer—Form No. 1.

No. 6.—*Mr. Lewis E. Grant to Mr. Crampton.*

Sir,

21, *Trinity Place, New York, February 28, 1855.*

BEING by birth a British subject, in the present emergency of my native country I feel warranted by the circumstances in thus intruding myself upon your notice.

Some time since I communicated with Sir E. Head (through favour of Mr. Barclay, British Consul of this port) a plan for raising a volunteer rifle corps. Some time having elapsed, and I having had no reply to my letter, I am naturally desirous that the views I entertain should be submitted to some authority competent to receive them without delay.

The substance of my letter to his Excellency was as follows:—

That Great Britain, although possessing vast resources and unlimited credit, is unquestionably, at the present time, in want of that indispensable requisite, *men*.

That my influence in this State enables me to raise within ten days (and in secret) a regiment of Rifles, comprising the ordinary number (436), the majority of whom are born subjects of Great Britain, and who are only waiting the moment when they may be allowed to show that they, although living in a foreign country, are not insensible of the claim that their native country has on them. The men are ready, but what is wanted is proper sanction being (secretly) given to their proceedings.

The battalion will be composed of men who are inured to danger and fatigues, accustomed to war and its privations, and who would never disgrace any flag they might fight under, as regards animal courage and physical endurance.

This movement has been some time on foot, and the men are naturally somewhat impatient (the plans being all matured), so that if the British Government are inclined to take advantage of the offer (which through the confidence of my associates I am enabled to make), I can place the above-mentioned number of men (436) within ten days out of the jurisdiction of the United States, and entirely at the service of the British Government until the termination of the war. The course proposed is, that immediately on terms being agreed to, I (as their representative) shall establish my quarters at Odelltown, Canada West, and receive the men, in conjunction with a British officer, to enlist them. The men who compose the corps are, with but the exception of say one-tenth part, well-drilled and admirable marksmen, so that by the time the arms and equipments could arrive at the depôt, the regiment would be in good working order, and ready for immediate embarkation.

Throughout the whole of this enterprise we have borne strictly in mind the necessity there exists of not infringing the Neutrality Laws of the United States, and the men would depart in squads at their own expense, ostensibly travelling as citizens of the United States on their own account to Canada.

Upon receipt of your reply I shall hold myself in readiness to wait immediately either upon you or, if you think it better, upon Sir Edmund Head, and explain the bearings of this matter more fully than a communication by letter will allow.

I am, &c.
(Signed) L. E. GRANT.

P.S.—Of course this is addressed privately and not officially.

Answer—Form No. 1.

No. 7.—*Major Rakow to Mr. Crampton.*

Excellency,

New York, February 23, 1855.

BY the passage of the Foreign Enlistment Bill, I am induced to offer to the Government of your Excellency, my services for the enlistment of able-bodied men now staying in this country.

The "native" excitement, and the bad condition of our labouring and mechanic population, make it easy to find trained men enough without taking resource to refugees.

By a former engagement here, I have the necessary experience which will fully satisfy my expectations and fully guarantee any trust the Royal Government may confer upon me.

To avoid any interference by the United States' authorities, the soldiers are to be shipped as passengers to some port, and there to be put in rank and file.

To any official person your Excellency may design in New York, I will present my papers, patent, &c., relating to my military career in Europe, and proofs of my [?] in the service. Plans, &c., must be arranged here. As I believe these lines only introductory, I close and take the liberty to sign.

Your, &c.

(Signed) H. J. RAKOW,
Major of Infantry.

Answer—Form 1.

No. 8.—*Mr. Henry Hertz to Mr. Crampton.*

Excellency,

Philadelphia, March 5, 1855.

TO be or not to be! Please write to me by return, as 450 able-bodied men are just as anxious as myself to hear something from you.

I expect, for certain, an answer, per return, from your Excellency, and remain, &c.,

(Signed) H. HERTZ.

Answer—None.

No. 9.—*Count Lanckronski to Mr. Crampton.*

Excellence,

Washington, le 7 Mars, 1855.

DANS plusieurs journaux Européens il se trouve annoncé que le Gouvernement de Sa Majesté Britannique entreprend une formation des Légions Etrangères. En conséquence je prends la liberté de recourir à votre Excellence afin d'être informé jusqu'à quel point cette rumeur se trouve conforme à la vérité et si les officiers et soldats d'armées Européennes qui se trouvent actuellement en Amérique pouvaient être admis dans les dites Légions, et de quelle manière cela devrait être accompli.

L'information que je sollicite me serait d'une importance majeure puisque je suis à même d'organiser un bataillon de Chasseurs à l'instar de ceux de Vincennes en France, composés d'officiers et de soldats de 600 à 1000 hommes, tous bien exercés et qui ont servis dans diverses campagnes et différentes nationalités, accoutumés à la discipline et à la vie militaire de camps.

Le voisinage de possessions Britanniques avec les Etats Unis facilite éminemment une telle organisation et je peux prendre l'engagement de l'accomplir en quatre semaines au point d'être prêt à se mettre en marche. La durée de service et le montant de la solde d'un tel bataillon seraient telles que le Gouvernement de Sa Majesté Britannique voudra régler.

En appui de ma proposition j'annexe ici la copie de l'état de mes services militaires.

Agreez, &c.

(Signé) S. R. COMTE LANCKRONSKI.

Answer.—Requested to call on the 11th March.

No. 10.—*Mr. C. Reynolds to Consul Kuper.*

Sir,

Baltimore, March 9, 1855.

I PRESUME to address a few lines to you in connection with a report that has been circulated as to raising recruits for the Crimea. It is well known that I am an old British soldier, and as such I take an interest in whatever concerns the welfare of the British forces; I am acquainted with a great number of men who would be glad to have a chance of entering the British army. I also would be proud to be numbered amongst its ranks as heretofore, but am unable from want of means, or I would proceed forthwith to join the fortunes of my countrymen before Sebastopol.

I however could advance the interests of the cause if I were empowered; I could raise more men in one month than any three recruiting rendezvous could in double the time if I were authorized, and without infringing the statutes of the American Constitution.

There are thousands of men not naturalized, and who do not owe allegiance to F. Pierce or Government, out of employ, and who would be glad of anything that would keep them from starving, and whom the State could not hinder from going where they pleased, that would be glad to go to a place where they may eventually become, through their own good conduct, both rich and independent. The means that I would take to accomplish this is simply to send each ten men off in the cars as they are enlisted, the bounty not to be paid until they arrive at the receiving dépôt in Canada or elsewhere as may be stated; each ten men to be handed over to the charge of some person (say the conductor) as emigrants to Canada, or as the case may be, and a small compensation allowed for his trouble to be paid from the bounty of the recruit when he arrives at head-quarters.

Sir, if you will take this into consideration, I think I can pledge myself (being appointed on the recruiting service) to raise more men in the same time than any three parties in Great Britain employed on the like service.

I have, &c.

(Signed)

C. REYNOLDS,

Late Corporal 97th Regiment.

This letter was forwarded to Her Majesty's Legation by Mr. Consul Kuper.

No. 11.—*Mr. J. Dunlop to Mr. Crampton.*

Sir,

Baltimore, March 20, 1855.

MY term of service in the United States' army having expired, being a British subject, and feeling desirous of joining the Royal Artillery, I have presumed to take the liberty of addressing you to ascertain whether my services would be accepted. I have never declared my intention of becoming a citizen of the United States, and have a good character from the United States' army.

By answering this, you will oblige yours, &c.

(Signed)

JAMES DUNLOP,

Late of 1st Regiment United States' Artillery.

Answer:—

Mr. Crampton to Mr. J. Dunlop.

Sir,

British Legation, Washington, March 21, 1855.

IN reply to your letter of yesterday's date, I have to state to you that I have no reason to doubt that Her Majesty's Government would be disposed to accept the services of yourself or of other persons under similar circumstances, should they be found after the usual examination properly qualified for military duty. But neither I nor any of Her Majesty's Consular Agents or others, are empowered to enlist within the United States, or to hire or retain within the United States, any persons for the purpose of being enlisted in Her Majesty's service, as this would be an infraction of the laws of the United States.

(Signed)

JOHN F. CRAMPTON.

No. 12.—*Mr. Thos. O. Jones to Mr. Crampton.*

Sir,

Baltimore, March 22, 1855.

FROM published accounts I perceive that your Government has opened recruiting rendezvous in New York, and there being a number of young men in this city desirous to join the army in the East, I have presumed to address you on the subject. I have no doubt but a large number of young able-bodied men in this city might be induced to join your army, if a rendezvous was opened here, and should you deem the subject of sufficient importance to take the matter into consideration, I should be pleased to hear from you.

I have served the United States in the capacity of lieutenant in the Mexican war, and I flatter myself that I could be of some service to you in the way of recruiting or in raising a Company or Companies for your service should the inducements offered prove satisfactory. I shall be pleased to hear from you at your earliest convenience, and should you wish to see me personally I will visit you at your residence in Washington City.

I have, &c.

(Signed) THOS. O. JONES.

Answer :—

Mr. Crampton to Mr. Thos. O. Jones.

Sir,

British Legation, Washington, March 23, 1855.

I HAVE received your letter of the 22nd, and I have to inform you in reply that although I have no reason to doubt that Her Majesty's Government would accept of the service of such foreigners as may be desirous of joining it, no rendezvous for enlistment has been opened by the authority of Her Majesty's Government at any place in the United States, nor has any person been authorised to hire or retain any individual to go beyond the limits of the United States for the purpose of being so enlisted. This would constitute an infraction of the Neutrality Laws of the United States (*vide* Act of Congress 1818, section 2), and Her Majesty's Government, however desirous to obtain recruits for the British army, are still more anxious that the laws of the States with which Her Majesty is at peace should be respected.

Should you desire information as to the terms, &c., upon which foreigners may be enrolled under the provisions of a late Act of Parliament, I shall have pleasure in furnishing you with such information as is in my possession at any time you should call at Her Majesty's Legation in this city.

(Signed) JOHN F. CRAMPTON.

No. 13.—*Mr. C. Reynolds to Mr. Crampton.*

Sir,

Baltimore, April 2, 1855.

I MOST respectfully address the following communication to you, confidently anticipating that you will second my most ardent desire.

I was discharged at my own request from the 1st Battalion of 97th Regiment at Corfu, after a service of over twelve years; I can then be recommended for my former service and receive a pension. I served under Colonel Lockyer and Captain (now Major) Welford; I am not a naturalised citizen, so that I claim to be still a British subject, and therefore request that you will forward me on to Canada, and, if you will, stop the amount out of my bounty which my passage may cost.

(Signed) C. REYNOLDS.

Answer :—

Mr. Lumley to Mr. C. Reynolds.

Sir,

British Legation, Washington, April 5, 1855.

I AM desired by Mr. Crampton to acknowledge the receipt of your letter of the 2nd instant, and to inform you that he has no doubt that your services

would be accepted should you present yourself to the proper authorities in the British dominions.

Mr. Crampton cannot, however, accede to your request to forward you to Canada, as that would constitute an infraction of the Neutrality Laws of this country.

(Signed) J. SAVILE LUMLEY.

No. 15.—*Captain Zankish to Mr. Crampton.*

Sir,

Baltimore, April 4, 1855.

IN reference to a speech lately made by Sir Robert Peel at his election place, Tamworth, and to many circumstances which led me to the belief that even a stranger to England might be admitted to the ranks of that army which is to be raised against the foe of civilisation, in case of peace not being concluded, I offer you my services for that purpose, and I know a good many stout hearts which, like me, had to quit after the last unsuccessful struggles in Europe, and to suffer under the sham lights of liberty we have to submit to here, and would like to strike a blow once more for the sake of freedom and humanity.

If, therefore, your Excellency deems it expedient to employ my services you are free to dispose of them whenever you think proper.

(Signed) A. ZANKISH, *Civil Engineer,*
Formerly Capitaine d'Artillerie à cheval au service du Roi de Saxe.

Answer :

Mr. Crampton to Captain Zankish.

Sir,

British Legation, Washington, April 5, 1855.

IN reply to your letter of the 4th instant, I have to state to you that I have good reason to believe that Her Majesty's Government would be disposed to accept of the services of any well-qualified officer who should present himself to the proper authorities in the British dominions; but I am not authorised to or engage or enlist, or otherwise retain the military services of any person within the United States, as this would constitute an infraction of the laws of this country.

I shall, however, be ready to give you such information as I possess in regard to this subject, should you think it worth while to call upon me personally.

(Signed) JOHN F. CRAMPTON.

No. 18.—*Mr. C. Martin to Mr. Crampton.*

Sir,

New Orleans, April 26, 1855.

THE inclosed note from W. Mure, Esq., will, I think, be sufficient to show that although I have been almost a constant resident of this place for the last sixteen years, I have still remained a true and loyal subject of the Crown of Great Britain. The time seems to have arrived when it becomes the duty of every man, whether at home or abroad, who claims the privileges of a British subject, to bring all the energies of his soul into action in support of that Crown and Constitution, and that glorious flag, of which he so proudly and so justly boasts. A most opportune moment seems to have arrived in this country, and particularly in this city, for carrying out this object.

The intolerance, bigotry, and persecution under which foreigners generally, and particularly those forming a majority of Her Majesty's subjects in a certain portion of the British Empire, have suffered during the last nine or ten months, has effected a change in the feelings and dispositions of those people, and has brought about circumstances which I think to be purely providential at this important juncture, and which will, I think, enable a proper person, invested with proper authority, to raise a force of 5,000 men, and upwards, of as brave and determined troops as ever marched to a battle-field under the British or any other flag on the face of the earth.

The object alluded to can, I feel certain, be accomplished without any danger of obstruction from the United States' Government, as none but British subjects need be accepted, who, I think, have a just and legal right to transmigrate from this or any other country, for the prosecution of any object which to themselves may seem proper, and particularly when that object is manifestly the support of that Crown and Constitution under which they were born, and the protection of which they would still claim, were they involved in any difficulty.

I think that, for the sum of 6*l.* to 10*l.* per man, the number above alluded to—viz., 5,000, and upwards—can be raised or delivered in any of the West Indies or North American Colonies, or even in Malta, without any additional expense to the Government; and I also think that by asking Mr. Marcy the question, you will find that the Government of this country will not consider it their business to interfere, so long as the Passenger Laws are strictly complied with, which is the only law of this country which can have any bearing at all upon the subject,—no law of nations, either neutral or international, being violated, or in any way infringed upon in the premises. There need be no enlistment, no armed or military organization of forces within the limits or jurisdiction of the United States, nor any article contraband of war leaving her shores on the occasion. Should the subject-matter of the preceding meet with your approbation, I shall be glad to receive your advice and instructions upon the subject, and shall hold myself in readiness to execute any order, or adopt any advice, you may think proper to favour me with.

(Signed) CHRISTOPHER MARTIN.

Answer:—

Mr. Lumley to Mr. C. Martin.

Sir,

British Legation, Washington, May 3, 1855.

I AM desired by Mr. Crampton to acknowledge the receipt of your letter of the 26th April, and to inform you that he has no doubt that the services of all those persons whom you describe as being anxious to join the forces of Her Majesty will be gladly received, and that the feelings which actuate you will be gratefully acknowledged. At the same time Mr. Crampton wishes me to impress upon you the very stringent and comprehensive nature of the Neutrality Laws of the United States, according to which it is not only illegal to enlist or recruit the subjects of any State *within the United States* for the service of a foreign Power, but equally an indictable offence *to hire or retain any individual to emigrate for the purpose of enlisting* in foreign military service against a Power with whom the United States' Government is at peace. It is essential, therefore, that nothing should be done which would be inconsistent with the supposition that the persons you refer to leave the United States as *voluntary emigrants*, for as such alone could they legally leave this country for a foreign State.

Should they, however, on reaching Halifax or any other British possession, enlist in the service of Her Majesty, their travelling expenses will be paid, and they will receive the bounty of 6*l.*, or 30 dollars, together with the pay of eight dollars a-month, rations, good clothing, &c., for every effective man from nineteen to forty years of age.

Any further information I may be able to obtain I will not fail to transmit to you.

(Signed) J. SAVILE LUMLEY.

No. 19.—*Mr. C. Martin to Mr. Crampton.*

Sir,

New Orleans, May 12, 1855.

I HAVE the honour to acknowledge the receipt of Mr. Lumley's despatch under date of the 3rd instant, and beg to express my most grateful acknowledgments for the advice and information it contains upon the subject of my letter to you under date of the 26th ultimo.

I presume that you will have noted, through the public papers, that a person called Captain Walsh has been trying here for some time past to engage a number of Germans for the Foreign Legion, under the head of labourers for

the St. Andrews and Quebec Railroad, but who has not yet succeeded in getting a single man off—chiefly, I think, for want of having commenced on a proper principle, and want of means to carry out any plan which he could adopt; but still it has served to bring forth a threat from the Collector of this port, which I think he will not venture to put into execution (if he once finds the business to be commenced, and conducted upon a proper and legitimate principle), viz., that he will not allow any ship to be cleared for the British Colonies with emigrants, or any class or style of passengers, *unless* the parties clearing the ship will furnish bonds to the amount of sixty thousand dollars, that they shall each and all of them be employed in building railroads or other labouring work, which I think you will at once pronounce to be a most absurd, illegal, and intolerable assumption of power, which he does not and cannot possess.

The inclosed is a copy of a notice which, if you approve of, I intend to have inserted in one or more of the newspapers, upon which you will please give me your advice and opinion; and if you think well of it, to please ascertain from Mr. Marcy whether or not the Collector here can legally object to a ship or ships clearing from this port with such passengers on board without having them *bound over to hard labour* on their arrival, under the protection of the Government and the flag of their native country.

If it should appear to you desirable to carry out this object in a safe and proper manner, it will be necessary to place matters upon such a footing as will at once enable the parties engaged in it to negotiate their drafts, to meet at least a part of their unavoidable expenses, which must be very considerable, as from all the information I can obtain upon the subject from Captains of British ships and others acquainted with the emigration and passenger business, that it will cost at least 6*l.* 15*s.* to 7*l.* 10*s.* per man, under the best and most economical arrangement that can be devised to convey them from here to Halifax, and many of them will require assistance to get here from the interior. It would therefore be necessary to make at least 6*l.* available to the party undertaking the business, leaving say 2*l.* 10*s.* as a contingent surplus to meet any deficit that might arise from accident or inefficiency of any portion of those sent forward, which, however, I do not apprehend, leaving 8*l.* as the maximum amount chargeable to Government.

(Signed) CHRISTOPHER MARTIN.

Copy of Notice inclosed in Mr. Martin's Letter of May 12, 1855.

*Emigration and General Agency Office,
No. 1, Union Street, New Orleans.*

The A 1 passenger ship ——— will sail for Halifax on Tuesday, June 5, and will be followed by a ship of the same class on each succeeding Tuesday throughout the summer, or so long as freight and passengers will offer to justify their continuance.

For freight or passage apply as above.

(Signed) CHRISTOPHER MARTIN, *Agent.*

Answer :—

Mr. Lumley to Mr. C. Martin.

Sir,

British Legation, Washington, May 29, 1855.

I HAVE delayed replying to your letter of the 12th instant until I could obtain the opinion of an eminent American lawyer on the subject to which it relates, and I now beg to inform you that there cannot be the slightest objection to your inserting the notice (copy of which was transmitted in your letter) in any newspaper you may think fit.

I am also able to inform you that the Collector at New Orleans has no legal authority to prevent ships clearing out with emigrants for Halifax, or any other part of the British dominions, even should those persons have declared their intention of enlisting on reaching British territory. Any person may, of his own free will, emigrate for the purpose of enlisting; but it is illegal to engage a person *within the United States* to enlist in the British army.

The opinion of the Secretary of State of the United States, as expressed to

Mr. Crampton and to myself on this subject is, "that there is no law in the United States to prevent any number of persons emigrating of their own free-will with the intention of enlisting in a foreign country; but that nothing in the shape of recruitment within the United States will be permitted, and that any attempt to evade or infringe the Neutrality Laws will be severely punished."

I must therefore warn you that the act of giving assistance to persons in the interior, to enable them to emigrate, might possibly be considered in the light of an infraction of the law. There is, however, no doubt that the captains of ships affording a free passage to such emigrants will be reimbursed for the expenses of any number of able-bodied men who may enlist on reaching Halifax.

From the inclosed extract,* containing an account of a late trial at Philadelphia, you will perceive that Judge Kane has even expressed the opinion "that the payment of the passage from this country of a man who desires to enlist in a foreign port, does not come within the Act."

A different opinion might, however, be given in the Circuit Court of New Orleans.

(Signed) J. SAVILE LUMLEY.

No. 20.—*Mr. H. Hertz to Mr. Crampton.*

Excellency,

Philadelphia, May 28, 1855.

A FRIEND of mine, of your place, visited me last night, whic his the cause I trouble you with a writing to-day, as I wish to have my honour and character free from any stain therefrom.

I hear the unfounded rumour is afloat that I shall have written or offered to the Russian Embassy my service to reveal or expose the British recruiting, as they call it, and its *backers*. Although I must treat such falsehood with contempt, do I also feel myself much hurt by hearing that your Excellency and Secretary seems to believe in such. I must therefore earnestly, although most humbly, beg your Excellency to reveal to me the stinking pond wherefrom such infamous falsehood had its origin, as my feelings will not allow me to tolerate such blame to stain my character. Should you not think fit to reveal such to me, or solace me by telling me, after your best consideration, what you think of this fool matter, I will be obliged to call for explanation in the public papers, either from your Excellency or the Russian Embassy, vindicating my character.

Before I finish I will tell you that, if I would have made a scoundrel of myself, I could, the same day I was arrested, have been free and well paid.

The honourable Consul here knows that well. But although I feel myself, since my arrestation, left alone, I have not and will not flinch, for the casualties there perhaps await me, but not even mentioned a name.

I hope your Excellency will remember how I was introduced to you, and therefore by return of mail, either direct or indirect, will favour me with your open and upright answer; then what I said before, if I do not see your Excellency consideration till Friday next, I must turn my mind to such honourable means which may bring my character before the public clear and honourable.

(Signed) H. HERTZ.

P.S.—Let it have been said from whom it may it is a falsehood, and belongs to the same party conspiracy which are against the British interests.

Answer :—

Mr. Lumley to Mr. H. Hertz.

Sir,

British Legation, Washington, May 31, 1855.

IN the absence of Mr. Crampton I beg to acknowledge the receipt of your letter of the 28th instant.

Although I am not aware that I have had the advantage of making your acquaintance, I beg to inform you (as Secretary of Her Majesty's Legation) that

* See Mr. Lumley's despatch dated May 29, to Lord Clarendon, p. 15.

no charge against you of the nature to which you refer has been made to me ; it is therefore almost superfluous to add that I have never expressed the opinion reported to you as having been held by me.

(Signed)

J. SAVILE LUMLEY.

No. 21.—*Mr. E. E. Perkins to Mr. Crampton.*

Sir,

Philadelphia, June 11, 1855.

I BEG to discover myself to you as one of the persons accused of enlisting men in this city for Her Britannic Majesty's service. I beg further to say I am labouring under the effect of perjury committed by two of the most rabid Irishmen of the Young Irish party in the United States, the same increased by the affirmation of a quasi-Quaker of the same political school to the same end.

They have sworn and affirmed that some months ago I said I had waited on you to consult on the enlisting of men for Her Britannic Majesty's service ; that you in consequence took me to the Honourable Mr. Marcy, United States' Secretary of State ; that before and with him you and he examined me on the subject of said supposed enlistment ; the conclusion of which was that neither you nor Mr. Marcy disapproved of what I had done or intended to do in said matter, with some other remarks I will neither offend you nor commit myself by repeating.

As I never made use of such language, nor anything bearing on it, because I never had the honour to wait on your Excellency or Mr. Marcy on the subject ; as I am put to heavy and grave charges more than I can pay, and my very liberty jeopardized, I respectfully beg that you will favour me at your earliest convenience with a note, stating that I never waited on nor communicated with you on the subject of enlisting men in Philadelphia or elsewhere in the United States of America for or on account of Her Britannic Majesty.

I am credibly informed such an acknowledgment from you and the Honourable Mr. Marcy (to whom I am also writing) will effect my liberation from present jeopardy and further injustice, and permit me to say I shall be very grateful for its receipt.

(Signed)

E. E. PERKINS.

Answer :—

Mr. Crampton to Mr. E. E. Perkins.

Sir,

British Legation, Washington, June 13, 1855.

IN consequence of the request contained in your letter of the 11th instant, I have no hesitation in stating that you are totally unknown to me, and that I have never had communication with you personally, or in any other manner, upon any subject whatever.

I need scarcely add, therefore, that the story of my having accompanied you to Mr. Marcy is a fiction.

(Signed)

JOHN F. CRAMPTON.

No. 22.—*Mr. Madalinski to Mr. Crampton.*

Excellency,

Philadelphia, July 2, 1855.

THE Provincial Secretary of Nova Scotia having officially declared that Her Britannic Majesty's Government is about forming foreign legions, I ask leave to present the following request :—

According to rules and prescriptions regulating the formation and existence of said legions, I offer to raise a battalion of riflemen for Her Majesty's service, consisting of not less than 600 men, on the following conditions :—

1. That I receive the commission of Lieutenant-Colonel as sole Commandant of the battalion.

2. That I have the power to present to your Excellency's approval one Major and two officers per company, and two medical officers.

3. That the regulations, pay, allowances, and pensions, in event of wounds or death, should be the same as in Her Majesty's army.

4. That, at disbandment, the officers and men should be, at their choice, furnished with a suitable passage to the United States or gratuity of equal money, and that each officer shall receive six months' pay.

5. That in order to defray the expenses of journey to the nearest agreed point (Niagara) in Her Majesty's dominions, at the time of enlistment twenty dollars for each man enlisted there under medical superintendence shall be immediately paid.

6. That a bounty of fifteen dollars shall be paid to each man on enlistment.

The conditions above are indispensable for the successful and speedy enlistment of men in presence of the many obstacles which the United States' authorities are throwing daily in the way of recruiting agents; and by these means alone, without violating the Neutrality Laws which bind the authorities and people of the Union, the success of said purpose may be promoted and accomplished.

After expressing the object of my request, I feel it my duty to give your Excellency some explanation concerning my person. A Polish political exile; I am the son of Charles Madalinski, Colonel in the Royal Polish army; grandson of Brigadier-General Anthony Madalinski, Captain of Vienna National Guards in 1848. After the fall of that city, I have been forced to emigrate to this country.

(Signed) M. HLASKO MADALINSKI.

No. 24.—*Major-General Ruthven to Mr. Crampton.*

(Confidential)
Sir,

*Rough and Ready, Warren County, Tennessee,
August 6, 1855.*

PRESUMING from the tone of the public press of Great Britain that that Government is still desirous of obtaining the services of several thousand men to recruit her army in the Crimea, I respectfully submit the following proposition to your Government:—

1. If the Government of Great Britain will give me 1,500,000 dollars, I will raise and march a division of 6,000 men to the various ports in the United States, from whence they may be shipped to the Crimea or elsewhere.

2. That the British Government confer upon me the rank of Major-General, with the independent command of the said troops, and that said troops shall select their officers from among themselves and be commissioned in their respective grades by the Queen.

3. That said troops shall not be enlisted for a longer period than during the war, or five years; at the expiration of which they shall be shipped to the United States and be discharged.

4. That said troops receive the same pay and emoluments as troops of the British line.

5. That the stipulated amount of 1,500,000 dollars be placed in the hands of special agents or bankers in the United States, to be drawn as the men are delivered, in proportionable rates to the number of men delivered.

6. That the British Government agree to have said troops shipped from the ports at which they may be delivered, within ten days after their arrival, or bear all losses by desertion, cost, &c.

7. That if the number exceed 6,000, then the same proportional ratio be paid for the overplus.

Your Excellency will perceive at once the impossibility of enlisting Americans to serve under British officers; those men, if enlisted, will do so under a state of excitement and love of change, hence their immediate shipment will be necessary.

Our Treaty obligations with Russia *can be handsomely evaded.*

Your Excellency's opinion on the above by return mail, if possible, will oblige, &c.

(Signed) E. V. RUTHVEN,
Major-General, Tennessee Militia.

No. 25.—*Mr. F. Cunningham to Mr. Crampton.*

Sir,

Muscatine, Iowa, September 29, 1855.

BEING informed that you are inclined to recruit men for the Crimea, I will, in spite of Neutrality Laws opposed to it by this country, deliver at some convenient spot in Canada from 1,000 to 5,000 volunteers, bold, hardy frontiersmen, good shots, inured to hardship, accustomed to Indian warfare, intelligent, sober men, of good families, many at present in business, but whose temperament will not allow them to pursue a quiet calling.

On the arrival of these men in your Provinces, you are to supply them with the means of living, and enrol them together.

This I will do for the consideration of a First Lieutenant's commission in the British army, with promise of active service until termination of the war, the commission to be secured by private hands here.

This offer will not strike you strangely, when you are aware that any number of filibusters are always ready to be raised in a few days in the Mississippi. The incursion of Lopez into Cuba has shown what the men were—by no means *canaille*, but young men educated, who joined his flag for the pure love of adventure, knowing the chances were alarming against them. You doubtless have emissaries whom I should address in this business; not knowing any, I apply to you.

(Signed) FRANK CUNNINGHAM.

Offers of service from eighteen American surgeons answered according to Form No. 2.

FORM 1.

Reply to Offers of Enlistment.

Sir,

I HAVE received your letter of the _____, and I regret to say that I am not in possession of the information with which you desire to be furnished.

I have received no instructions from Her Majesty's Government which would authorize me to take steps for the enlistment of men or the engagement of officers for the British army.

(Signed) JOHN F. CRAMPTON.

FORM 2.

Reply to Surgeons offering their services for the British Army.

Sir,

I HAVE received your letter of the _____, and I regret that I am not in possession of the information you wish to be furnished with.

I have received no intimation from Her Majesty's Government that there is any want of medical officers for the British army which cannot be supplied by British subjects.

(Signed) JOHN F. CRAMPTON.

Inclosure 2 in No. 72.

Memorandum as to the Trial of the Indictment against Hertz.

ANY review of this case founded upon the printed report of the trial must necessarily be imperfect and unsatisfactory; for, first, it is a very rare thing to find (if it is ever found) a full and faithful report of

oral evidence in an exciting and protracted trial ; and where the report is made for either party, or for a partizan of either party, with a view to ulterior objects, one must be credulous indeed to believe in its entire fidelity, even where there exists no corrupt or improper motive. But if the report of evidence be ever so faithful and accurate, it must still be lacking in that most important test of truth, the manner, tone, and appearance of the witnesses while under examination.

In the present instance, and with a view to the inquiry how far, if at all, the Diplomatic or Consular Agents of Great Britain within the United States have given any just cause of complaint to this Government, this particular report is liable to strong suspicion. It purports to have been made for the special use of a partizan newspaper, the editor of which is himself examined as a witness for the prosecution (pp. 93—95) and claims for himself the honour of first having discovered and exposed the complicity of these agents in the affair.

But were it possible to place full reliance upon the report, it remains to be remarked that the case itself, in this respect, is entitled to none of the sanctions which ordinarily attach to criminal proceedings. It is evident, from its inception to its close, that the real object of the trial was to inculcate the British Minister and certain Consular Agents, who not only were not, and in the nature of things could not be, parties to the proceeding, but against whose indirect intervention at the trial (in the event of their becoming advised of its sinister purpose) the Attorney-General of the United States thought it proper to caution the District Attorney by a special despatch on the eve of the trial. The Attorney-General's despatch of September 12th (page 160) clearly indicates to the United States' District Attorney, that it is expected of him to furnish the President with "the elements of decision," "judicially ascertained," "as to what international action it becomes the United States to adopt," &c. ; while his despatch of the 17th takes care that this "judicial ascertainment" shall be not only in form, but rigidly in substance, *ex parte*, as to all which could give it any international importance whatsoever. It is not supposed that any officer or agent of the British Government would have interfered in any manner ; but the two despatches, taken together, simply indicate the spirit and object of the prosecution, and are referred to for that purpose.

This is the more remarkable, because the question of the complicity of British Diplomatic or Consular Agents was wholly foreign to the question of the guilt or innocence of the parties on trial. And so the learned Judge (who allowed all this evidence to be received) expressly tells the jury in his charge, at page 103. And yet, for the purpose of guarding them against the influence of these extraneous considerations, he himself indulges in observations upon them, the direct and necessary tendency of which, however intended, was to inflame the prejudices of the jury, and to keep before them this so-called "international" aspect of the case.

So far as the prisoners and their counsel were concerned, there seems to have been the most perfect good understanding between them and the prosecution. One of the prisoners (Perkins), who by his own account was a confidential agent of the British Government, and in direct correspondence with Lord Clarendon himself, was agreed by the District Attorney to be entitled to his acquittal. His stories were too monstrous to produce any other effect than ridicule. The other, Hertz, having accommodated the District Attorney by interposing no objection to whatever appeared to tend to implicate the British Minister and Consuls, when convicted was taken under the immediate protection of the Attorney, who obligingly read his confession to the Court, introducing it by submitting the despatches of the Attorney-General as showing that the object of the trial had been sufficiently attained, and concluded by recommending him to the merciful consideration of the Court.

Hertz himself, and the witness Strobel, whose testimony is mainly relied on, both appear in the attitude of persons who had made claims upon the British authorities which were denied and repudiated. As to Strobel it would appear that he had regularly taken service in the

Foreign Legion (as he had a right to do), but that "through the intrigues" of certain British officers of other regiments, "who were anxious to receive commissions in the Foreign Legion" (page 56), he fell under some undefined suspicions, and being under charges, deserted and returned to the United States, full of rage and vengeance.

It is this Mr. Strobel who proves the handwriting of Mr. Crampton to the notes exhibited on the trial, and purporting to have been addressed to Mr. Hertz and Mr. Strobel respectively, and who proves divers conversations with Mr. Crampton and with Sir Gaspard le Marchant; and who proves the details of "the plan" as prepared by himself, and approved by those gentlemen; and who proves Mr. Crampton's preparation of the paper at page 53, entitled "Memorandum for the guidance of those who are to make known," &c. In short, without Mr. Strobel's testimony the great collateral object of the trial must have utterly failed.

It must be agreed that a witness so presenting himself challenges our suspicion, and will not be believed except so far as he is corroborated by other evidence not open to equal suspicion.

As to the "Confession" of Hertz no one can seriously attribute to it the slightest weight on a question of so much importance.

But passing by other observations of a like general nature, the important question lies within a very narrow compass. It is, whether any facts have been established by this trial, which implicate the British Minister at Washington in any violation of the Neutrality Act of 1818, or of any broader international duty, if there be any in this respect broader than the terms of that statute. The case established by the verdict is simply that "Henry Hertz is guilty in manner and form as he stands indicted." This "manner and form" embraced different and inconsistent charges of enlisting certain persons within the United States, and of hiring and retaining the same persons to go beyond the jurisdiction of the United States, with intent to be enlisted in a foreign place. The verdict appears to convict him of both. But the evidence is confined to the charge of "hiring or retaining."

The supposed complicity of the Minister is in being accessory in some form or other to this offence of "hiring and retaining certain persons to go beyond the jurisdiction of the United States, with intent to be enlisted."

Taking the construction of the statute which the learned Judge gave to the jury to be the true one, it was surely no violation of the letter or spirit of the law, or of any known theory of neutral rights (at least as understood here or in England), if the British Minister, or other British authorities, simply gave information to those who were desirous of advancing their fortunes by foreign service that the British Government was desirous of raising a Foreign Legion, and that such persons would be gladly received on presenting themselves within the contiguous British territory. Nor could there be any objection to this information being communicated, with all the details of advantages which would accrue to the parties who might avail themselves of it. It is the right of the people to seek and obtain such information, if they desire it, and can procure it; and it is the right of any one to give it, either asked or unasked. No Congress would venture to prohibit the publication of such intelligence; and no Executive would dare to attempt to enforce any theory of the Law of Nations which makes it criminal. But it is enough to say that the particular Act of Congress under which this case arose, and by virtue of which alone it could be prosecuted, recognises the legality of every act and thing in the premises short of the actual *hiring and retaining within this jurisdiction*, of any person *to go beyond the jurisdiction, with intent* to enlist. This is as far as the law pretends to go. It first prohibits the *enlistment* within this jurisdiction; and then the *quasi* enlistment, by the *act of hiring and retaining* within this jurisdiction. Now neither the giving of information in any shape or form, nor the establishment of depôts at convenient places within British territory for the reception of such persons as might choose to avail themselves of such information, can come within either the letter or the spirit of the law. Nor is there anything in the Judge's charge to indicate that he would regard either or

both of these acts as a violation of the law, or an evasion of the law. As to what was done beyond the jurisdiction, it could only be supposed at all pertinent to the case by throwing light upon what was done within the jurisdiction.

Any or all the able-bodied men in the United States may, if they choose, quit the country with intent to enlist in the service of France, or England, or Russia, or any other Power, in peace or in war, so that the war be not with the United States, and any such Power may make known its desire to have such "material aid." Indeed it would, in the nature of things, be impossible to prevent the dissemination of such knowledge, as of all knowledge, by a free press in a free country. Within their own jurisdiction, such Powers may lawfully hold out inducements which shall operate to attract the people of the United States to quit their own country, and to join such foreign forces.

Something more than a privity and concern in all this is necessary, in order to give any cause of complaint against Mr. Crampton. What does Mr. Strobel prove in this respect? He represents himself as having called voluntarily on Mr. Crampton some time in January 1855. He does not say why, or upon whose suggestion, or in what terms, he made his application; but it may be inferred that he came for information in regard to the terms and manner of joining the Foreign Legion, in consequence of having seen by the English news that the raising of such a Legion was authorised. Passing for the present the account which he gives of that interview, with the remark that the substance of it is that Mr. Crampton could not give him the information he desired, not being himself informed in the premises, we come to the first paper purporting to be written and signed by Mr. Crampton, and which Strobel says (page 46) he received about the *28th of February*, though the note itself is dated the 4th. This is a brief notification that he is now able to give him (Strobel) more precise information on the subject of their late conversation.

Taking the note to be genuine (and on its face there was nothing improbable in that assumption), it is quite consistent with perfectly lawful and proper conduct and intentions on the part of a public Minister so situated. It was his right and his duty by all lawful means to further the lawful designs of his Government; and the information sought could not properly have been withheld by him.

But the genuineness of this note seems to have been relied on as confirmation of Strobel's account of the two interviews which he had with Mr. Crampton—that to which it refers, and that which it invited. It would equally confirm any other account of those interviews which he might have chosen to give.

Certainly the testimony of Strobel, especially with regard to the second interview, needs confirmation; and it is not easy to say what amount of confirmation would render it even probably true. Let it be observed that Strobel seems to have presented himself voluntarily to Mr. Crampton, without any introduction or any recommendation whatever. He does not appear even to have given to Mr. Crampton any account of himself whatever, except that he was seeking service in the Foreign Legion, and desired information on that subject. And yet to this stranger Mr. Crampton, at the second interview, without any preface or caution whatsoever, openly avows his readiness "*to raise men here in the jurisdiction of the United States for a British Foreign Legion.*" And when the District Attorney, doubtless surprised at this testimony, asks the witness, "Did he use the words, *within the jurisdiction of the United States?*" the witness boldly answers, that "*he did use those precise words.*"

This passes the bounds of credulity. First, why should he use those precise words? There was every reason, if he had such design in view, that he should not. Next, why should the witness be able to swear to those "precise words?" The answer must be, because those words expressly avow, beyond all cavil, an intention to violate the Statute; and that was what the witness had undertaken to prove. His eagerness defeats his own object, in the minds of all considerate people.

At page 67, Strobel proves a note from Mr. Crampton to Hertz, dated the 27th day of January, in reply, apparently, to one asking an

interview, and simply granting it "to-day or to-morrow." It does not appear that the subject of the interview was ever conjectured by Mr. Crampton. The object of Hertz, it may be inferred, was like that of Strobel, and the interview terminated in the same manner.

On the same page Strobel proves a second note, of the date of February 4th, and a fac-simile of that addressed to himself, except that it is addressed to Hertz. He is now able to give the desired information. Thus far the cases of Hertz and Strobel are identical.

Of Strobel's account of what happened to him in the British provinces, and of the confirmation of his narrative by the cards of invitation to him and the other "officers of the Foreign Legion," (page 55,) it may not be necessary to go into any minute criticism, since he has himself produced a copy of the instructions which he says Mr. Crampton finally gave him with his own hand, and which will be found at pp. 53, 54. In these instructions, by Strobel's own account, Mr. Crampton embodied the result of all the conferences which he pretends took place. These instructions, he says, in his report to Sir Gaspard le Marchant (page 58), he strictly obeyed and enjoined upon his inferiors.

It seems to be conceded on all hands that these instructions are carefully exclusive of any violation of the law. But this very caution is laid hold of as only another proof of a deliberate and deep-laid scheme to insult the sovereignty of the United States, and by cunning evasion to violate its laws. It is difficult to reason with those who feel that there is the slightest force in such an argument.

The instructions confine *all action* in reference to the Foreign Legion *within* the United States, to the mere dissemination of information. This, we have seen, is not prohibited by the Act, in letter or spirit. The line was drawn by the Legislature so as to authorise everything short of hiring or retaining. If the indictment had charged the prisoner with merely "enticing," "persuading," or "inducing" persons to go abroad to enlist, it would have been granted on motion, as charging no offence known to the law. It required something more. "A hiring or retaining" was necessary in order to constitute an offence. In consequence, nothing short of authorising, encouraging, or consenting to a "hiring or retaining," could give any just ground of national offence. If the thing itself when done was no offence, it is difficult to comprehend how the authorising or consenting to it could be so.

The instructions are as explicit as language could make them, not only in forbidding any enlistment within the United States, or any hiring or retaining to enlist, but also in forbidding even the appearance of those acts. The parties employed were simply to give information, and even the extent of that information is defined in the instructions: "The information to be given will be simply, that to those desiring to enlist in the British army, facilities will be afforded for their so doing *on their crossing the line into British territory*; and the terms offered by the British Government may be stated as matter of *information* only, and *not as implying any promise or engagement, &c.*" And they are further warned, that if they go beyond these instructions their acts are unauthorised.

It would be an endless task to review all the contradictions, improbabilities, and absurdities presented by the evidence of the witnesses, as reported in this pamphlet.

It may simply be repeated that while they destroy all confidence in the merely oral evidence, that evidence is sufficiently discredited, so far as Mr. Crampton is concerned, by the writings produced by the witnesses themselves, and particularly by the special instructions just referred to. Whatsoever goes to involve him in the proceedings of Messrs. Hertz and Strobel, and their friends and confederates, depends on testimony which can hardly be considered of a character to disturb international relations, or to inculcate a public Minister in the violation of Municipal Law.

Inclosure 3 in No. 72.

Captain Strobel to Mr. Crampton.

Sir,

Boston, July 11, 1855.

I HAVE been recalled to Halifax, as you have learned by your visit to Niagara Barracks, from Mr. Preston.

I was treated in Halifax like a criminal, discharged and cast off from Sir Gaspard as a useless tool. Exactly the same report I had sent to you by a messenger, who unfortunately misst you, I handed to Sir Gaspard, but in vain; not one question was put to me, not one word heard of my defence. Thirty pounds currency were paid to me as a travelling expense, to wherever I would like to go to, and by Sir Gaspard's opinion the play was at a end.

Excellency, with the highest respect, I was devoted to you; my pride was your confidence, and my determination was to do my best to have success.

However, I will not defend myself, it is to late. I arrived in the United States last Friday. I cannot find employment, as you easely comprehend. I must leave this country, and my conclusion is to repare to Constantinople.

I beg of your Excellency to furnish me with the necessary means to effect this my purpose.

I beg of your Excellency to place in my hands through somebody the sum of 100*l.* sterling.

Be assured with burning shame in my heart I write. I have now been two times by one of the best lawyers in Boston. I am about well enough acquainted with the whole business in the U. S. to stop it at once. My non-commissioned officers have been attested soldiers of Her B. Majestay, and have been send with your knowledge into the jurisdiction of the U. S. You have been present whenn I, or we, received orders in the Provincial Building at Halifax.

But little could be said about all this, had not that smart Mr. Preston send written orders to me and my officers in the U. S., which I hold still in my possession, requesting accounts of money spend for recruiting, etc., etc., signed by order of his Excell. Sir Gasp. Le Marchand, stating about reports sent to his Excell. Mr. Crampton. In short, my lawyer told me that he will take matters up the very moment I wish him to do so, and that he at once will procure my bail, by turning State's evidence.

Excellency, I beg of you to spare me this mean, shamefull act, and to send me, directly after receiving my letter, a telegraph despatch, if you think to fulfill my request, and whenn the money will be send.

Shall I receive no answer till next Thursday evening? I have at once all the parties arrested from Boston to Lewisville; my lawyer can proceed, and every written order in my possession, ect. You remember the letter you sent by Turnbull to Preston. Whatever may compromise the Engl. Government, and prove violation of the Neutrality Law of the U. S., I will put in his hands. Furnish me with the means to leave, and I starte with the first opportunity to Europe.

I remain, &c.

(Signed) M. v. S.,
Captain.

My address in Boston is, Henry Santhon, at the New Winthrop House, opposite the Common.

Inclosure 4 in No. 72.

Affidavits relative to Captain Strobel.

State of New York, ss.

By this Public Instrument, Be it known to all whom the same doth or may concern, that I, Charles Edwards, a Public Notary in and for the State of New York, by Letters-Patent under the Great Seal of the said State, duly commissioned and sworn, and in and by the said Letters-Patent invested "with full power and authority to attest deeds, wills, codicils, agreements, and other instruments in writing, and to administer any oath or oaths to any person or persons,"

do hereby certify that, on the day of the date hereof, before me personally came and appeared Maximilian August Thoman, of No. 7, Allen-street, New York; and he being sworn by me, did depose and say that, from all he knows and has been informed, he verily believes that Captain Max Strobel is, and has been for some months past, in the pay of the Russian Government, and is made use of by Russian officials in the United States; and he says that the amount he (Strobel) receives for the same has been openly stated, namely, the sum of twenty-five dollars a-week.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the city of New York, in the said State of New York, the 26th day of October, in the year of Our Lord 1855.

In præmissorum fidem.

(Signed)

M. A. THOMAN.

(Signed)

CHARLES EDWARDS,
35, Pine Street, New York.

State of New York, ss.

By this Public Instrument, be it known to all to whom the same doth or may concern, that I, Charles Edwards, a Public Notary, in and for the State of New York, by Letters-Patent under the Great Seal of the said State, duly commissioned and sworn, and in and by the said Letters-Patent invested "with full power and authority to attest deeds, wills, codicils, agreements and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify, that on the day of the date hereof, before me personally came and appeared Major Henry Jacob Fack, of the city of Newark, State of New Jersey, United States of America, and he being by me duly sworn, did depose and say, that he was formerly and before the revolution commenced in Baden, an officer in the Bavarian Artillery, and in the revolutionary army of Baden, being Commander of its Artillery. That this deponent has understood that Max F. O. Strobel has given out and testified that he was in the Bavarian Artillery, whereas deponent, who knew every man in the said Artillery, says and deposes that it is false, for that there was no man of that name in such Artillery; but this deponent remembers that there was a man in some subordinate capacity, in some other branch of the army, of the name of Strobel, charged with something of a criminal character, but at this distance of time he does not remember the particulars.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the City of New York, in the said State of New York, the 8th day of November, in the year of Our Lord 1855.

In præmissorum fidem.

(Signed)

HENRY J. FACK.

(Signed)

CHARLES EDWARDS,
35, Pine Street, New York.

State of New York, ss.

By this Public Instrument, be it known to all to whom the same doth or may concern, that I, Charles Edwards a Notary Public, in and for the State of New York, by Letters-Patent under the Great Seal of the said State, duly commissioned and sworn, and in and by the said Letters-Patent invested "with full power and authority to attest deeds, wills, codicils, agreements and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify, that on the day of the date hereof, before me personally came and appeared Oscar Cromrey, and he being again sworn by me, did further depose and say, that from all he knows and has been informed, he verily believes that Captain Max. Strobel is and has been for some months past in the pay of the Russian Government, and is made use of by Russian officials

in the United States, and he says that the amount he (Strobel) receives for the same has been openly stated, namely, the sum of twenty-five dollars a-week.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the City of New York, in the said State of New York, the 27th day of October, in the year of Our Lord 1855.

In præmissorum fidem.

(Signed) CHARLES EDWARDS, OSCAR CROMREY.
35, Pine Street, New York.

State of New York, ss.

By this Public Instrument, be it known to all whom the same doth or may concern, that I, Charles Edwards, a Public Notary, in and for the State of New York, by Letters-Patent under the Great Seal of the said State, duly commissioned and sworn, and in and by the said Letters-Patent invested "with full power and authority to attest deeds, wills, codicils, agreements and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify, that on the day of the date hereof, before me personally came and appeared Conrad Flinck, now of No. 210, William-street, New York, and he being duly sworn maketh oath and saith, that he well knows Max. Strobel, who was a witness on the trial of Charles Hertz in Philadelphia; and he knows the character of the said Max. Strobel for truth and veracity; and deponent says that such character is bad; he has heard more than six or seven persons say so, and he would not believe the said Max. Strobel under oath.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the City of New York, in the said State of New York, the 20th day of October, in the year of Our Lord 1855.

In præmissorum fidem.

(Signed) CHARLES EDWARDS, CONR. FLINCK.
35, Pine Street, New York.

State of New York, ss.

By this Public Instrument, be it known to all to whom the same doth or may concern, that I, Charles Edwards, a Public Notary, in and for the State of New York, by Letters-Patent under the Great Seal of the said State, duly commissioned and sworn, and in and by the said Letters-Patent invested "with full power and authority to attest deeds, wills, codicils, agreements, and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify, that on the day of the date hereof, before me personally came and appeared Louis Kazinski, formerly Lieutenant in the Royal Guards of the King of Sardinia, but now residing in Hoboken, State of New Jersey, in the United States of America; and he being by me duly sworn, did depose and say, that he knows a man of the name of Max Strobel, having met him for the first time at the house of a Pole in Twelfth-street, in the city of New York; that in June last (1855) this deponent was on trial at Boston, in the State of Massachusetts, for an alleged infringement of the Neutrality Laws, but was acquitted; that while he was on trial this man, Strobel, called on deponent and informed him that he, Strobel, was engaged on a secret mission in the States, and afterwards went to this deponent's counsel, and informed them that he had power to expend considerable sums in his defence, which deponent has since found to be wholly untrue. Shortly after this deponent's acquittal, and while he was residing at the St. Nicholas Hotel, in the City of New York, a card was left for him, whereon was written in the German language, that the writer had called several times, and if the deponent had denied himself "the devil should take him." This was signed, Captain Max. A few hours afterwards,

Captain Max, alias Strobel, again called, and had an interview with deponent, told him of his intention to be State's evidence against the Honourable Mr. Crampton, urged deponent to become a witness against Mr. Charles H. Stanley (who is in the office of the British Consul at New York), and, if possible, even against Anthony Barclay, Esquire, Her Britannic Majesty's Consul. Soon after this the said Strobel volunteered to introduce one Mr. Landers to deponent; this Landers claims to be a civil engineer, and is pretty well known in the community by his remarkable proposition to build a railroad to Puget Sound. The said Landers had several interviews, as he informed deponent, and as deponent verily believes, with the Russian Minister, Mr. Stoeckel, at the Metropolitan Hotel. Also the said Strobel, as well as the said Landers, informed deponent that the former had also an interview with the said Mr. Stoeckel, when Mr. Stoeckel gave the said Strobel twenty-five dollars. Also this deponent saith, that subsequently, on various occasions, the said Landers offered money to this deponent, and constantly asserted that he had frequent interviews with the Russian Minister, also with Mr. McKeon, the District Attorney, and his assistant, Mr. Joachimsen. On an after-day this deponent had an interview with the said Joachimsen in Lander's room at the Florence Hotel (both Landers and Strobel boarding there), and they proposed to pay the deponent's hotel bill (at the St. Nicholas), provided he would become a witness against Mr. Stanley or Mr. Barclay; and soon after the said Landers wished this deponent to make an affidavit intended to implicate Mr. Stanley or Mr. Barclay, which deponent refused. One day the said Landers urged deponent to go to Boston, and pressed money on him for expenses; but he declined to go. Strobel and Landers remained away two weeks, and when they returned they offered money to this deponent if he would manage to get letters from Mr. Crampton, the British Minister, directed to Mr. Charles H. Stanley.

And this deponent says that since all this he has ceased all acquaintance with the said Strobel and Landers, although they have called several times at this deponent's late residence, and the former, Strobel, left messages for him to the effect that this deponent could make any amount of money if deponent would call on him. And this deponent, from private conversations, and from all he knows and believes, is morally convinced that the said Strobel, alias Max, is in the pay of the Russian Minister or Russian Government.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the City of New York, in the said State of New York, the 22nd day of October, in the year of Our Lord 1855.

In præmissorum fidem.

(Signed) COUNT L. KAZINSKI.
(Signed) CHARLES EDWARDS,
 35, Pine Street, New York.

Inclosure 5 in No. 72.

Mr. Hertz to Mr. Crampton.

424, near Twelfth Street, below Coates,
Philadelphia, May 28, 1855.

Excellency,

A FRIEND of mine of your place, who visited me last night, is the cause I trouble you with a writing to-day, as I wish to have my honor and character free from any stain thereupon.

I hear the unfounded rumor is afloat that I shall have written or offered to the Russian Embassy my service to reveal or expose the British recruiting, as they call it, and its *backers*; although I must treat such falsehood with contempt, do I also feel myself much hurt, by hearing that your Excellency and Secretaries seems to believe in such.

I must therefore earnestly, although most humbly, beg your Excellency to reveal to me the stinking pond wherefrom such infamous falsehood had its origin, as my feelings not will allow me to tolerate such blame to stain my character. Should you not think fit to reveal such to me, or solace me by

telling me after your best consideration what you think of this fool matter, I will be obliged to call for explanation in the public papers, either from your Excellency or the Russian Embassy, vindicating my character.

Before I finish, I only will tell you that if I would have made a scoundrell of myself, I could the same day I was arrested, have been free, and well paid.

The honorable Consul here knows that well. But although I feel myself since my arrestation left alone, I have not nor will not flinche for the casualties there perhaps awaits me, but not even mentioned a name.

I hope your Excellency will remember how I was introduced to you, and therefore by return of mail, either direct or indirect, will favor me with your open and upright answer then what I have said before; if I not see your Excellency's consideration to Friday next, I must turn my mind to such *honorable* means wick mai bring my character for the public clear and honorable.

Pray, Excellency, don't forgett.

Your, &c.

(Signed) H. HERTZ.

P.S.—Let it have been said from whom it may, it is a falsehood, and belongs to the same partie conspiracy, wick are against the Brituish interests.

Inclosure 6 in No. 72.

Mr. Lumley to Mr. Hertz.

Sir,

Washington, May 31, 1855.

IN the absence of Mr. Crampton, I beg to acknowledge the receipt of your letter of the 28th instant.

Although I am not aware that I have had the advantage of making your acquaintance, I beg to inform you (as Secretary of Her Majesty's Legation) that no charge against you of the nature to which you refer has been made to me. It is therefore almost superfluous to add that I have never expressed the opinion reported to you as having been made by me.

(Signed) J. S. LUMLEY.

Inclosure 7 in No. 72.

Affidavits relating to Mr. Hertz.

City and County of New York, ss.

William Schumacher, now residing in the City of New York, formerly Ensign in the Schleswig-Holstein army, being duly sworn, saith that on or about the fifteenth day of November instant he was in company with some acquaintance at a certain bar-room situated at No. 33 in the Bowery, in this City of New York, and that he there met one ——— Loeb, whom deponent believes to be now, or to have been lately, a resident at Philadelphia; and that said ——— Loeb having learned that deponent's name was Schumacher, and that he was under bonds for a pretended infraction of the Neutrality Laws, he (Loeb) addressed deponent and conversed with him on subjects appertaining to late trials for similar alleged offences.

That said ——— Loeb informed deponent that he had been formerly connected in business with Henry Hertz, of Philadelphia, lately convicted there before Judge Kane, and that when all difficulties arising from his said conviction were over, he (Loeb) expected again to have business connections with him.

That said ——— Loeb also informed deponent that he had been informed by said Hertz that he (Hertz) had made five hundred dollars out of his aforesaid trial at Philadelphia.

And further, said ——— Loeb informed deponent that said Hertz had

written to him (Loeb) a letter in which he stated that he (Hertz) was coming shortly to New York, to attend as witness on certain trials of a nature similar to those already referred to.

(Signed) W. SCHUMACHER.

Sworn to before me, this 24th day of November, 1855.

(Signed) JOHN C. BERGH,
Com. of Deeds.

Commonwealth of Pennsylvania, City of Philadelphia, ss.

Be it known that on the day of the date hereof, before me, Edward Hurst, Notary Public for said Commonwealth, duly commissioned and sworn, residing in said city, personally appeared Maximilian August Thoman, of the City of New York, who being by me duly sworn according to law, did depose and say :

That he recently had a conversation with Sigismund Zeise, now the confidential clerk of P. R. Scherr, No. 142, Coates-street, in Philadelphia aforesaid, liquor-dealer, who stated to him, the deponent, that Henry Hertz, now residing at No. 424, South Twelfth-street, Philadelphia, was about two years and six months ago a salesman in the employment of the said P. R. Scherr and his then copartner Henry Gerner, and that he the said Zeise was at the same time employed in the said establishment.

That whilst the said Hertz was acting as salesman in said employment, he in cooperation with said Gerner swindled Mr. Scherr, the other copartner, out of sundry sums of money, by sending liquors, wines, and other articles, to different customers without charging them in the books of the concern, or crediting the firm with the money received therefor, which they appropriated to their own use.

That said Zeise in said conversation further stated, that said P. R. Scherr instituted a suit and recovered a verdict against his partner the said Gerner in one of the Courts in the City of Philadelphia, and that the said Gerner, as well as the said Henry Hertz, were obliged to leave the said establishment, the latter being actually turned out of doors as a man who had wronged his employer by a swindling operation.

That said Zeise in said conversation also stated, that said Gerner and said Henry Hertz on one occasion endeavoured to induce him the said Zeise to join them in the swindling process of sending articles of merchandize to different persons, without charging them in the books of the concern, or of giving the firm credit for the amount received therefor ; that he declined their overture, and gave information of the fact to his employer, the said P. R. Scherr.

The deponent further states that William Mehler was present during the said conversation, and heard the whole of it.

(Signed) M. A. THOMAN.

Sworn and subscribed before me, this 2nd day of November, 1855.

(Signed) EDWARD HURST,
Notary Public.

Commonwealth of Pennsylvania, City of Philadelphia, ss.

Be it known that on the day of the date hereof, before me, Edward Hurst, Notary Public for said Commonwealth, duly commissioned and sworn, residing in said city, personally appeared Maximilian August Thoman, of the City of New York, merchant, who, being by me duly sworn according to law, did depose and say,—That he has recently made inquiries throughout various parts of the City of Philadelphia, as to the character and standing of Henry Hertz, now residing at No. 424, South Twelfth-street, Philadelphia, and that he has uniformly been informed by everybody with whom he conversed on the subject, and who knew anything about said Hertz, that he, the said Henry Hertz, bore the character of a mean, low-minded man, without good reputation, and one who

had been guilty of swindling. That he was a man no one who was acquainted with would trust beyond his sight, and who could not obtain credit even for a pennyworth.

The deponent further says, that the following are the names of a few respectable German citizens of Philadelphia, from whom he received such information, viz., C. Beecken, Doctor of Medicine, Ch. Lüchow, Innkeeper, Second-street, near Race-street, Sigismund Zeise, Clerk to P. R. Scherr, No. 142, Coates-street, William Mehler, Innkeeper, corner of Crown and Vine-streets, and Charles Fischer, Doctor of Medicine, corner of Crown and Callowhill-street, in Philadelphia, aforesaid.

(Signed) M. A. THOMAN.

Sworn and subscribed before me, this 2nd day of November, 1855.

(Signed) EDWARD HURST,
Notary Public.

Commonwealth of Pennsylvania, City of Philadelphia, ss.

Be it known that on the day of the date hereof, before me, Edward Hurst, Notary Public for said Commonwealth, duly commissioned and sworn, residing in said City, personally appeared, Maximilian August Thoman, of the City of New York, who, being by me duly sworn according to law, did depose and say,—That Henry Hertz, whom he understands has no personal means nor any property whatsoever, now lives in very good style at No. 424, South Twelfth-street, in the said City of Philadelphia, and has apparently plenty of money at his command to spend. That as such was not the case previously to his having turned States' evidence for the Government of the United States, it appears to be the general opinion amongst the German population of Philadelphia, that he has been paid by Russian officials in said City of Philadelphia, for having turned States' evidence, as aforesaid.

(Signed) M. A. THOMAN.

Sworn and subscribed before me, this 2nd day of November, 1855.

(Signed) EDWARD HURST,
Notary Public.

Commonwealth of Pennsylvania, City of Philadelphia, ss.

Be it known that on the day of the date hereof, before me, Edward Hurst, Notary Public for said Commonwealth, duly commissioned and sworn, residing in said City, personally appeared, William Mehler, of the City of Philadelphia, aforesaid, Innkeeper, who, being by me duly sworn according to law, did depose and say,—That he was present at a conversation which recently took place, between Maximilian August Thoman, of the City of New York, and Sigismund Zeise, now the confidential clerk of P. R. Scherr, No. 142, Coates-street, in Philadelphia, aforesaid, liquor dealer.

That said Zeise, in said conversation, stated, that Henry Hertz, now residing at No. 424, South Twelfth-street, Philadelphia, was, about two years and six months ago, a salesman in the employment of P. R. Scherr, and his then co-partner, Henry Gerner, and that he, the said Zeise, was at the same time employed in the same establishment. That whilst said Hertz was acting as salesman in said employment, he, Hertz, in cooperation with said Gerner, swindled Mr. Scherr, the other co-partner, out of sundry sums of money, by sending liquors, wines, and other articles, to different customers, without charging them in the books of the concern, or crediting the firm with the money received therefor, which money they appropriated to their own use.

That said Zeise in said conversation further stated that the said P. R. Scherr instituted a suit, and obtained a verdict against his partner, the said Gerner, in one of the Courts of the City of Philadelphia, and that said Gerner, as well as the said Henry Hertz, were obliged to leave the said establishment, the latter being actually turned out of doors as a man who had wronged his employer by a swindling operation.

That said Zeise in said conversation also stated, that the said Gerner and Henry Hertz on one occasion endeavoured to induce him, the said Zeise, to join them in the swindling process of sending articles of merchandise to different persons without charging them on the books of the concern, or giving the firm credit for the amount received therefor.

That he declined acceding to their overture, and gave information of the facts to his employer, the said P. R. Scherr.

(Signed) WILL. MEHLER.

Sworn and subscribed before me, this 2nd day of November, 1855.

(Signed) EDWARD HURST,
Notary Public.

Commonwealth of Pennsylvania, City of Philadelphia, ss.

Be it known that on the day of the date hereof before me, Edward Hurst, Notary Public for said Commonwealth, duly commissioned and sworn, residing in said city, personally appeared William Mehler, of the city of Philadelphia aforesaid, innkeeper, who being by me duly sworn according to law, did depose and say, that he has an extensive acquaintance amongst the foreign population now resident in the city of Philadelphia, and that he is conversant with the fact that a very general opinion prevails amongst the Danish and German portion of said foreign population, that Henry Hertz, who now resides at No. 424, South Twelfth-street, Philadelphia, was formerly a spy in the pay of the Danish army during the late war from 1848 to 1851, carried on to suppress the Revolution of Schleswig-Holstein, and that he has heard Mr. Jacob Hapas, of Philadelphia, represent this circumstance to be quite a certain fact.

(Signed) WILL. MEHLER.

Sworn and subscribed before me, this 2nd day of November, 1855.

(Signed) EDWARD HURST,
Notary Public.

Commonwealth of Pennsylvania, City of Philadelphia, ss.

Be it known that on the day of the date hereof, before me, Edward Hurst, Notary Public for the said Commonwealth, duly commissioned and sworn, residing in said city, personally appeared William A. Dobbyn, clerk to the Pennsylvanian Hospital in the said city, who being by me duly sworn according to law did depose and say, that a person calling himself Hertz, called on him at said hospital, about the latter end of April, or the beginning of May last, and informed him, the deponent, that he, the said Hertz, was under bail for having recruited for the British service. That he had been employed by a British officer, who had suddenly absconded, and had left him in the lurch. He begged and implored the deponent to go to the British Consul to procure pecuniary aid from him, to repay him (Hertz) for the sums he had laid out. The deponent first of all hesitated, until Hertz's supplications for himself and family induced him, the deponent, to promise that he would see the Consul. Hertz sent him a letter, which was not signed, stated that he had laid out 500 dollars in attempting to get recruits, and that he would be imprisoned for debt if he did not procure that sum. Deponent did go to the Consul, who immediately told him he would have nothing to do with Hertz, or be in any way concerned with him, and begged him, the deponent, to inform Hertz of it, which he accordingly did by letter. Hertz called on deponent a second time, and had some conversation with him. Deponent thinks in this last interview it was, that Hertz told him that the Attorney-General had tried his utmost to make him, Hertz, implicate the Consul, telling that it would be to his advantage so to do. This last fact deponent is positive of, for when he expressed his surprise, Hertz threw himself into a theatrical attitude, touching his breast and saying, "But he (the Consul) may be assured of my honour."

(Signed) W. A. DOBBYN.

Sworn and subscribed before me, this 3rd day of November, 1855.

(Signed) EDWARD HURST,
Notary Public.

Inclosure 8 in No. 72.

Affidavit respecting Mr. Hertz.

State of Pennsylvania, City of Philadelphia, ss.

PERSONALLY appeared before me, the subscriber, an Alderman and Justice of the Peace of the city of Philadelphia, Franklin Butler, who being duly sworn, deposes and says: That he resides in the city of Philadelphia, and is an importer of watches and jewellery. Deponent says he knows one Henry Hertz; that he has known him about two years; that he knows his character by public report, that it is bad as relates to financial matters. That in January last said Hertz, who had before importuned deponent to let him have watches on credit, which deponent refused, obtained from deponent two gold watches, upon the representation that he had a purchaser for them, and that he would return the watches or the money on the following Saturday. After procuring the watches, deponent heard nothing from Hertz, and sent repeatedly to him, but could not get the watches or the money. Finally, by threats of prosecution, he obtained from him one of the watches, by giving him a receipt in full, and allowing him to keep the other watch. Deponent says the watch that was obtained, was procured through his counsel, upon condition that there should be no prosecution. Deponent says that, from his own knowledge of the said Henry Hertz, as well as from the character of him derived from others, he emphatically says that he would not believe him on his oath.

(Signed)

FRANK. BUTLER.

Sworn and subscribed before me, this 6th day of March, 1856.

(Signed)

JNO. B. KENNEY, Alderman.

Inclosure 9 in No. 72.

Affidavit respecting Mr. Burghthal.

JOSFPH P. HIGGS, being duly affirmed, deposeth and saith, that he is and has been for three years last past sole bookkeeper at Jones's Hotel, in this city; that his attention has been called to the statement of a certain Charles Burghthal, a witness in the case of the United States v. Henry Hertz; that the said statement of the said Burghthal, to wit: "Afterwards Mr. Howe visited me with two or three gentlemen, and invited me to Jones's Hotel; I went to him, and dined with him and those other gentlemen. I intormed him at dinner of my opinion in relation to the recruiting business, that it had been forbidden in the United States," is, as regards his dinner at Jones's Hotel, deponent asserts, untrue. That deponent's recollection is corroborated by reference to the books of the hotel, in which all items and charges are invariably specified. That Mr. Howe arrived first at the hotel on the 12th of March, 1855, and left on the 14th; that he returned on the 25th, and finally left on the 26th March, since which deponent has not seen him. That doing both visits Mr. Howe took his meals at the public table, and that consequently no charge for private meals is entered against him, and that no charge is entered in the books against him of any guest at the public table, which would have been the case had he invited any person there. Deponent further saith that there is no entry in the books of the hotel about that period of the name of Burghthall, or any similar name, and that there is no person of the name of "Hicks" in the establishment at Jones's Hotel, and that he believes himself to be designated under that name in the following statement in a document called the Confession of Henry Hertz, to wit: "On the morning of the 14th of March, I went to Jones's Hotel. Mr. Howe had left; but Mr. Hicks, the bookkeeper of Jones's Hotel, handed me an envelope without an inclosure; on the fly or fold of the envelope were written these words, 'Go to Mr. Mathew; it is all right.'" Deponent saith that he never received or gave to Mr. Hertz any such paper on the day after Mr. Howe's departure. Some time afterwards he received a sealed package purporting to contain money, with a note in the handwriting, as the deponent believes, of

Mr. Howe, requesting the same might be delivered to Mr. Hertz on his calling, which deponent accordingly did. In witness whereof he hath subscribed his signature hereunto, this 29th day of February, A.D. 1856.

(Signed) JOSEPH P. HIGGS.

Witnesses present at the signing hereof:

(Signed) H. OSLER, Jun.
WILLIAMS OGLE.

Affirmed and subscribed before me, an Alderman of the City of Philadelphia, this 29th day of February, 1856.

(Signed) WILLIAMS OGLE, *Alderman*.

Inclosure 10 in No. 72.

Affidavits respecting Proceedings of the United States' District Attorney and Marshal.

State of New York, ss.

BY this Public Instrument, be it known to all whom the same doth or may concern, that I, Charles Edwards, a Public Notary, in and for the State of New York, by Letters-Patent under the Great Seal of the said State, duly commissioned and sworn, and in and by the said Letters-Patent invested "with full power and authority to attest deeds, wills, codicils, agreements, and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify, that on the day of the date hereof, before me personally came and appeared Frederick Denicke, now of No. 10, City Hall-place, and late of No. 5, Chambers-street, in the city of New York, and he being by me duly sworn, did depose and say: That he is a German by birth, and has the confidence of many of his countrymen, and that they are in the habit of frequenting his drug-store; that he knows Charles H. Stanley, Esquire, who acts as Secretary to the British Consul in the said city of New York; that in the month of July last (1855) the said Mr. Stanley happened to come into this deponent's drug-store, at a time when some Germans were there, and when one of them showed Mr. Stanley a paper, which was a sort of invitation to men to go to the Crimea, and asked his opinion of it, the said Mr. Stanley, in the strongest terms, objected thereto, and gave all persons present distinctly to understand that he would not lend himself to infringe the laws of the United States, and that the British Minister had given imperative orders to the same effect, and not to allow any infringement of the United States' Neutrality Laws.

Also, this deponent says that during the month of August last (1855) a man came to deponent's store, stating he lived at No. 94 Gold-street, and urged deponent to see him in his (deponent's) private office, and when he was in there, said that he had got men who were willing to go and fight in the Crimea: but this deponent suggested that he had no authority to enlist men; and after the man left, deponent traced him, and he was seen to go into the office of the United States' District Attorney; that soon afterwards the same man sent two fellows to deponent's store, who suggested to deponent they came to be enlisted for the Crimea, when deponent forcibly ejected them from his drug-store, and told them to go to the United States' District Attorney, and tell him how they had been treated. And one of them, in moving away, drew a dirk-knife, and threateningly pointed to his breast, as if to show how he would treat deponent if he could lay hold of him.

Whereof, an attestation being required, I have granted this under my notarial firm and seal.

Done at the city of New York, in the said State of New York, this 13th day of November, in the year of our Lord 1855.

In præmissorum fidem.

(Signed) FR. DENICKE, *Dr. M.*
(Signed) CHARLES EDWARDS,
35, Pine Street, New York.

State of New York, ss.

By this Public Instrument, Be it known to all to whom the same doth or may concern, that I, Charles Edwards, a Public Notary, in and for the State of New York, by Letters-Patent under the Great Seal of the said State, duly commissioned and sworn, and in and by the said Letters-Patent invested "with full power and authority to attest deeds, wills, codicils, agreements, and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify, that on the day of the date hereof, before me personally came and appeared Oscar Cromrey, of 210, William-street, New York, and he being by me duly sworn, did depose and say: That he has been under indictment for alleged infringement of Neutrality Laws; also that since then, and on Saturday last, he saw Mr. George Nevins, Deputy United States' Marshal, when the said Nevins tried to frighten this deponent by hinting that he would be sent to Sing-Sing Prison, and directly afterwards said, "What money can you give me? what will you pay so that I can discharge the same moment?" meaning discharged from the indictment. He said, "I will give you a discharge; make you free, so that you may go wherever you please." Depo-
nent gave answer, that he could not say at once, but he would make up his mind in four or five days. Nevins then fixed a time for the answer, and begged deponent to keep the matter secret.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the city of New York, in the said State of New York, the 27th day of October, in the year of Our Lord 1855.

In premissorum fidem.

(Signed) OSCAR CROMREY.
(Signed) CHARLES EDWARDS,
35, Pine Street, New York.

Inclosure 11 in No. 72.

Dr. Reuss to Mr. Crampton.

Sir,

Washington, August , 1855.

I HAVE come back from Halifax. You will undoubtedly remember, when we on May the 14th last, met at the Province-Building, with Sir Gasper le Merchant, Capt. Strobel, Lt. Preston, and several other officers, when we took passage on the same vessels to Portland, Maine.

I would have called on you before this, but considering the pull of wires, in such cases as mine, I cautiously secured myself first such evidences which will prevent a failure of my just demands.

Governor le Merchant has treated me mean. I had confidence in a Representative of the English nation—but found to my surprise that I had done wrong in trusting his word—it has made me for the time being miserable!

You are the chief Representative of Great Britain, in who's interest I sacrificed my existence—I call therefore on you for relief.

Would an *English nation* see a *poor man ruined thus, without relieving him at once?* It was certainly not my fault that Governor Le Merchant could not raise more than 250 men for the Legion. I went to his public call in *Phila. papers*, were he demanded *Physicians* for the Legion, and offered the best chances !!!

Consider this call on you as to a gentleman.

Yours,
(Signed) DR. REUSS,
Med. Dr.

Sir !

I hope that your Excellency will be a gentleman againste me. One day my lady toll to me : " Look out whatt you do and trust not to mutch." I answert her : " If I dont find more a place, I am sur to find satisfaction, then an Englishman is *every time a gentleman !*" Now, Sir, I must hear every day : " *You see now wat kind of gentleman you did find in the English Governement !*" And in deed—Sir Gaspard le Marchant treated me in a verry mean manner, like a man out the caste of the people. He dont know, that I am out a family as good as him self, and I lik to be a gentleman forever, wat I cannot be, wehn you dont give me satisfactions. I can give you any security for my [? illegible]. I gote letters to somme gentlemen in the U. S. service,—to gentlemen of *power* ; this letter will be given to you—if you be a gentleman against me.

Sir ! In ENTHOUSIASME for *Her glorious Majesty* I lost now my existense. It is the same with me, likewise the 1,100 men in the West. I am sure that *Her Majesty* never will be satisfait with such a treat of gentlemen, who like to go in *Her Majesty's* service. And you cane expect that I *will* and *CAN find* my righth, and if *it must be, before the Throne !* I gote a cousin in London—an *Ambassador* of a *German KINGDOM*,—the *next cousin to my lady !* Think you that he will do *nothing* for me ?

I know also somme other men in London, who know to find the way to *Her glorious Majesty* every day !

Then, Sir, *I am ruined*, without my fault ; then Sir Gaspard can not spick that I didn't done my bussiness ! That was an *verry simple intrigue* of Mr. Preston.

Sir ! satisfait me now, and you will find out that I like to do every time like a gentleman.

In the best trust to your Excellency, I remain, &c.

(Signed)

DR. REUSS.

Washington, August 11, 1855, 11 o'clock.

P.S.—I didn't understand how Sir Gaspard could treat a man in such a manner ; a man who is seduced by his name, and who gave up his place *and existence* for his call !!! It is, in deed, *to much for the logic* of a man of *philosophie and reason !*

Yours,
(Signed) DR. REUSS.

Inclosure 12 in No. 72.

Dr. Reuss to Mr. Crampton.

Mr. Crampton !

Philadelphia, January 2, 1856.

I SEND you herewith a witness of my good remembrance. I told to Sir Gaspard (*my special friend*) that I never would forget him, and you see, that it is so indeed ! I gave to him now a theatrical place in an verry comic piece, so called "*English enlistment in the Union (1855)*," or, "*the Don Quixote of Halifax*" (*that is himself*). (*It will take place THIS night.*) Herewith you may accept the advertisement of the (German) theatre. Next time you self, dear sir, will take place in an other comedie, that I write in the moment.

Your,
(Signed) DR. REUSS.

P.S.—When you will receive in an other time a letter with *the seal* whom you see on the covert of THIS LETTER (*MY FAMILY SEAL !*) it will be every time from me !

Your,
(Signed) DR. REUSS.

No. 73.

Mr. Crampton to the Earl of Clarendon.—(Received March .)

(Extract.)

Washington, March 3, 1856.

A NEW charge is now brought up against us, which is not alluded to in Mr. Marcy's despatch of the 28th December, to the effect, that though we promised to stop the recruitment by your note of the 16th July, we still continued it. I can disprove this by documentary evidence.

No. 74.

Consul Mathew to the Earl of Clarendon.—(Received March 19.)

(Extract.)

Philadelphia, March 4, 1856.

I HAVE the honour to transmit by this mail a duplicate of my reply to Mr. Crampton's despatch of the 26th ultimo, intimating that the Government of the United States had requested my removal from this Consulate, and permitting me to answer the charges preferred against me by Mr. Marcy.

I beg also to inclose copies of the various corroborative documents accompanying my communication to Mr. Crampton.

It is probable that I shall be furnished with further affidavits relative to the witness Hertz.

I venture to entertain a sanguine hope that on a perusal of the inclosed correspondence, your Lordship will not find anything in my conduct of a nature to forfeit your Lordship's approbation.

Inclosure 1 in No. 74.

Consul Mathew to Mr. Crampton.

(Extract.)

Philadelphia, March 3, 1856.

I HAVE the honour to acknowledge your despatch of the 26th ultimo, intimating to me, by direction of the Earl of Clarendon, that the Government of the United States had thought proper to ask for my removal from this Consulate, on the ground that I am "implicated in the recruiting project."

I have also perused the published despatch of the 28th December from Mr. Marcy, instructing the Minister of the United States in London to make that request.

I beg leave, Sir, to deny explicitly, and in every sense, the correctness of the accusation thus brought against me, and to assure your Excellency that my course, since I have held a Consular appointment in the United States, has been in all things guided by a careful observance of the laws of the country.

The sole specification to my prejudice in Mr. Marcy's despatch, appears to be quoted from the confession of the Danish Jew, Hertz, presented on the 12th of October last by his prosecutor (the United States' District Attorney) to the Court, in mitigation of the penalty of acts of which he had been convicted, and for which he remains as yet unsentenced.

Having been apprized that Lord Panmure had directed the abandonment of the project of receiving volunteers for a Foreign Legion at Halifax, I viewed with unfeigned regret the prosecutions in this city in September; it was apparent that the enrolments in the British Provinces having ceased, these proceedings were unnecessary for the alleged object of the United States'

Government, and could only be productive of international irritation. Far from being viewed at first as offensive, the enlistments in the adjacent British Provinces were actually suggested by a large portion of the United States' press, before apparently systematic abuse of Great Britain, and the persistent misrepresentation of Lord Clarendon's observations in Parliament, had availed to change the tone of national feeling in the United States.

The United States' District Attorney in this city (Mr. Van Dyke) appears by his speech in Court on the 12th of October, to have entertained a similar opinion to mine, but to have been directed by Mr. Attorney-General Cushing to proceed with the indictments, by two letters (of the 12th and 17th of September) which were read to the Court by Mr. Van Dyke, at the close of the trial.

Of the latter of these letters I conceive I may with justice complain; my letter to my legal adviser, Mr. Rush (proposed by that gentleman to be read at the preliminary hearing, before the United States' Commissioner, to ascertain what grounds might exist for proceedings in the United States' Court) is, by it, represented as an interference with the course of justice. I am, on premises wholly erroneous, pointed out as "subject to the just suspicion of breach of law;" and a rule is laid down by which, under the really existing circumstances, I should have been precluded from repudiating any unfounded charges that might have been brought against me.

The sole questionable mention of my name, however, during the trial of Hertz, is made by the witness Charles Romberg; but the desire to elicit my name—had any ground for inculcating me existed—is evidenced in the queries put to Strobel (page 57), whose replies furnish the first contradiction of Hertz's subsequent confession.

Captain Romberg expressed to me his wish to serve in the British army before Her Majesty's Government authorized the raising of a Foreign Legion in Nova Scotia, as is clear by the context. I informed him I had no power in the matter, and could only forward any letter he might desire to send, to the proper authorities.

I cannot hesitate to designate the entire confession of Hertz, as far as my knowledge of the transactions to which he refers extends, as a tissue of invention and of wilful untruth; and I trust that my plain statement, corroborated by the inclosed affidavits, respecting various points in his confession, and by the accompanying letters from Mr. B. Rush and from Mr. R. P. Kane—the first the son of the well-known former Minister to England, and the usual legal adviser of this Consulate, the latter son of the eminent Judge of the United States' Court—will, in the opinion of the Earl of Clarendon and of your Excellency, amply bear out my assertion.

Hertz first presented himself to me in February 1855, stating that he expected a letter from your Excellency. He was told to call in a few days, when I read to him your message "that you had received no commands on the subject of his application."

No other conversation took place. During Mr. Howe's brief stay I made no communication to him respecting the character of Hertz.

After Mr. Howe's departure I handed, at his request, to Hertz (sending for him to the address given me), a letter containing, as he stated, money.

By the accompanying affidavit of Mr. Howe, your Excellency will perceive that Hertz has been guilty of gross perjury in his sworn confession respecting the receipt he transmitted on this occasion.

He shortly afterwards forced himself into my bedroom at Jones' Hotel, and in order to get rid of him, I was induced by his entreaties and solemn but unredeemed promise of repayment to make him a private loan of fifty dollars, "to take him to Halifax to see Mr. Howe," as I wrote to that gentleman.

Your Excellency's reply, dated "Washington, April 2, 1855," to the communication I felt it right to make respecting the apparently illegal course of Hertz, and the unauthorized reported language of Perkins, is referred to in Mr. Rush's letter.

I felt convinced that Hertz's design was to involve me in some knowledge of his transactions. I communicated this belief to Mr. Rush, and I steadily refused from his first introduction of himself any conversation with him.

I declined his written applications for interviews, and rejected, with the avowed expression of my bad opinion of him, the requests to that effect he induced others to make.

Subsequently to his arrest, I transmitted a sealed letter from him (sent to my office) to Mr. Howe. I was unwilling to be even the channel of handing to him money, which he received from the bookkeeper of Jones' Hotel.

After his trial he presented himself at the Consulate, which I desired him to leave. I learnt that he subsequently expressed his intention of "revenging" himself for this act, and his "confession" immediately ensued.

With this explanation I have only to add that I *never* gave him "counsel" or "assistance," that I was wholly ignorant respecting the "expeditions" he sent, never spoke of them to him, and never "encouraged" him in sending them.

I gave no money and lent no money to Mr. Bucknall, and I have not paid that gentleman's legal expenses, as the communication of Mr. Kane will show.

I wrote to Mr. Winsor, the consignee of the "Bonita" schooner, as I desired to send six British subjects to Halifax, where they intended to join Her Majesty's navy.

These men were previously boarded by my order at the usual boarding-house for sailors so circumstanced: the expenditure on their behalf and their transmission to Halifax will be found to have been duly entered in my Consular accounts.

Having thus fully noticed the sole ground alluded to by Mr. Marcy, I cannot but express my surprise at finding that the Government of the United States have thought proper to pass judgment upon me, as far as in them lay, without extending to me the justice of a trial or the courtesy of desiring my explanation of any allegations to my prejudice.

That the charges made by Hertz were distinctly repudiated by me could scarcely have been unknown. On the 30th of November (St. Andrew's day) I availed myself of the first appropriate occasion offered me, in the presence of the Governor of this State, of the Judges of the United States' Court, and of other authorities, to say, "I have, you are aware, been recently the subject of serious accusations. I will not stop to refer to the mode in which these were adduced. I will merely state they are wholly untrue, and that I have most carefully respected the laws of the United States. I will take the liberty further of expressing my conviction that the honourable gentlemen in whose official departments such matters lie (both here and in Washington), have not considered these accusations in any different light, as I have not been called upon for those ample refutations or explanations it was in my power to give, and which international comity and the rule of personal courtesy would otherwise have justified me in expecting to be requested to furnish."

On the 6th of November also, Mr. Howe addressed to the United States' District Attorney a letter, which I first saw in the Boston "International," and which was copied by the "Evening Bulletin" of this city on the 11th December last.

The statements of that communication (which it is natural to presume was made known by the able and honourable functionary to whom it was addressed, to superior authority in Washington) bear on their very face the stamp of truth, and coming from a gentleman of unblemished honour must carry conviction to the mind of every one.

Mr. Howe states, "The whole of Hertz's long account of the mode in which he endeavoured to get Mr. Mathew mixed up with the transaction is a fabrication. That 'I went to my writing-desk and took 300 dollars,' which he declined to receive, is untrue. The receipt which he has included in his confession is a forgery. The facts are these: . . . The receipt which Hertz has *forged* runs thus: 'Received, Philadelphia, 14th March, 1855, of Mr. B. Mathew, 300 dollars, on account of the Honourable Mr. Howe.'"

"The original receipt, *which is now beside me*, is in these terms:—

'Received of Hon. Mr. Howe, 300 dollars, on account of expenses.

"*Philadelphia, March 14, 1855.*

(Signed) 'H. HERTZ.'

"This money was put under cover to Mr. Mathew, with a simple request that he would pay it to Mr. Hertz, and take a receipt. Mr. M. knew no more of my business arrangements with Mr. Hertz than President Pierce did. He was never present at any conversation with that person, and neither he nor any Consul in the United States was ever compromised by any act of mine, or could.

if he was put upon his oath, accurately describe a single transaction in which I was engaged."

And again:—

"He (Hertz) came to me at Jones's, and I then found that he had got 100 dollars from Mr. Bucknall, 100 dollars from Mr. Winsor, and 50 dollars from Mr. Mathew, as a private loan, to take him, as he asserted, to Halifax, 'to see Mr. Howe;' and on further inquiry, I found that he was utterly without credit or resources, and had an evil reputation." And "when he was arrested, he sent me first a threatening letter, in which he could not even name the amount of money he would require to hold his tongue and endure his sufferings. To this I never replied. Some time after, he sent me a whining message, to say that for 200 dollars he could 'satisfy the District Attorney,' and stop proceedings. I sent him the money through the barkeeper at Jones's, I believe."

Mr. Marcy says, "Nothing is known of Hertz which can affect his veracity," &c. But surely, sir, I was entitled to expect that, before taking action to my prejudice, the Government of the United States would have instituted rigid inquiry into the character of a witness whose evidence is presented under such questionable circumstances.

I trust, however, that the documents I now inclose will sufficiently supply any deficiency on this point.

During my official residence in the United States, I have not only respected the laws, but have endeavoured, in every way in my power, to promote international sentiments of good-will and kindly feeling with Great Britain.

I have avowedly seen much to applaud in a country in whose future the best interests of civilisation are deeply involved, and whose public institutions challenge admiration, and I claim with sincere gratification to have made many valued friends among its citizens.

Under these circumstances, I cannot but feel deeply mortified at the course adopted towards me by the present Administration in the United States.

Inclosure 2 in No. 74.

Consul Mathew to Mr. Rush.

My dear Sir,

9, Pear Street, Philadelphia, March 29, 1855.

I PERCEIVE with surprise, by this morning's journals that personal allusion to me has been made yesterday, during the proceedings before the United States' Commissioner, respecting an alleged violation of the Neutrality Laws. I shall therefore be much obliged to you to attend, professionally, on my behalf, during the further hearing of the matter, and to state to the Commissioner that the evidence (as reported) of the witness, William Jones, is, as far as I am concerned, however immaterial it may be, incorrect.

I am unwilling to suppose that this man came to my office with the discreditable object of involving me in any illegality, but I conclude him to be a person who, after having unsuccessfully, but with peculiar tenacity, and with loud assertions of loyal patriotism, urged me to send him to serve at Halifax, stated that there was an office in Third-street, where he would at once be "taken" and shipped, and wished me to give him some note there; my negative reply was, "If there is such an office, I know nothing about it; it must be some private affair."

Many of Her Majesty's subjects have expressed to me their natural desire to serve their country in a war which may emphatically be said to have emanated from the voice of the people; and a large number of natives of Continental Europe, and others, have also made known to me their wishes respecting a war which they view as tending to advance the constitutional liberties of man, and I hold myself free to assist, *as far as I can with strict legality*, my countrymen in their laudable object, just as, I doubt not, every American in Europe would aid a poorer fellow-citizen towards his home were the United States at war; but cognizant as I am of the Neutrality Laws of the United States, I shall most carefully guard against infringing them.

On the other hand, I feel well assured of receiving full protection against ungrounded insinuations, and every courtesy.

I merely desire to add, with reference to the statement of an evening journal, that there is no British agent or functionary in this State but me.

Believe me, &c.

(Signed) GEORGE B. MATHEW.

Statement of W. Jones, made to the United States' Commissioner, March 28, 1855, referred to by Mr. Rush.

Wm. Jones, sworn :

I belong to Liverpool ; a labouring man told me where I could go to get to Halifax ; I went to the British Consul's office, and afterwards went to the office in Third-street, and asked if they could send me to Halifax ; Budd and Hertz were there ; I was to have gone on Sunday, but did not get away ; my two chummies who came with me, went on Sunday ; I would not have taken on, but it was the last shift with me ; I went yesterday to the British Consul, and asked him if he could send me to Halifax ; he said " No," but told me there was a place in Third-street, a private speculation, but he did not think I could enlist because I was under size.

Inclosure 3 in No. 74.

Mr. Rush to Mr. Mathew.

*Corner of Ninth and George Street,
Philadelphia, February 29, 1856.*

My dear Sir

I FEEL bound, no less by a sense of professional duty than by all personal considerations, derived from my agreeable intercourse with you since you have resided here as the incumbent of Her Britannic Majesty's Consulate, to acquiesce promptly and fully in your wish to have my impressions of the various occurrences belonging to the matters referred to in your note of yesterday's date. I proceed at once to give them. I am enabled so to do without difficulty, as well by reference to the letters and notes which passed between us at the time, as by a vivid recollection of the circumstances.

The single feature with which I had anything to do in the case you recall to me was an allusion made to you in the course of certain preliminary proceedings before the United States' Commissioner for this district on the 28th of March last, out of which that case grew.

The allusion was made by a witness under examination, and tended to implicate you in a breach of the Neutrality Laws of the United States.

Immediately on seeing that allusion next morning in the published report of those proceedings, you addressed a note to me, dated " Her Britannic Majesty's Consulate, March 29, 1855," requesting me to attend professionally on your behalf during the further hearing of the matter, and to state to the Commissioner that the evidence of that witness, as far as you were concerned, was incorrect.

I did so. As soon as the Commissioner took his seat at the next hearing of the case, I addressed myself to him publicly on your behalf, before the case went on. I said that in consequence of the allusion made to you at the last hearing, you had addressed a letter to me, the nature of which I stated, adding that you desired me to make known its contents to him ; that I thought it due to you, under the circumstances, that they should be made known ; that I thought this could be best done by reading the letter itself, which I held at the time in my hand ; and I asked his permission as an act of justice, no less than comity to the commercial representative of a friendly Power, to be allowed to read it accordingly. The District Attorney of the United States, who appeared at the hearing, objected to my reading the letter, chiefly because you were no party to the proceedings. The Commissioner sustained the objection. Both, I well remember, referred to you in a manner which certainly indicated no impression on their part that you were amenable to the charge of a breach of the laws of the United States. The

former said that he did not consider the British Consul to be implicated in the reports referred to by Mr. Rush. The latter said that the British Consul was in no way involved. I quote this from the full and accurate report of what was said, contained in the "Philadelphia Evening Bulletin" of the same day, Saturday, the 31st of March last.

Your letter found its way, notwithstanding, into the columns of the same and other papers, from the public interest attaching to it, though ruled out by the Commissioner as part of the record of the case. I herewith inclose the original.

Here, perhaps, I might stop, for here it is very certain you were completely exonerated from any charge, by the concurrent authority of two officers of the United States prominently connected with the administration of its laws.

But it is due to you, as the case now stands, to go further.

You were very naturally annoyed at the allusion which produced your letter to me. The subject of Foreign Enlistments in this country, and the cases of the persons charged with violating the Neutrality Laws of the United States in that connection, continued for some time to form a prominent topic of discussion in the public journals. Your attention was of course directed to these topics, and in your desire that I at least should be fully informed of the actual state of things, as far as you were concerned, it did not at all surprise me, as your professional adviser and friend, to receive from you, more than once, fresh evidence to corroborate the authoritative statements of the two officers of the United States I have named, even though there was no obligation whatever upon you to communicate with me further upon the subject.

It would be aside from what I conceive to be due to you and to myself to say more than this, saying it as I do with full knowledge; above all, to introduce names and incidents to confirm my own well-remembered convictions at that time of your earnest and repeated desire, expressed to others as well as myself, to abstain from the least infringement of the laws of the United States, not only from your own sense of duty, but in obedience to the orders of your official superiors. One exception to my purpose in this respect, and only one, may be made.

You placed in my hands, with a just satisfaction, a few days after the period referred to, a letter addressed to you by the Minister Plenipotentiary of your Sovereign, at Washington, Mr. Crampton, dated "April 2, 1855," in which I was forcibly struck with this paragraph:

"The ground you have taken, in studiously respecting the Neutrality Laws of the United States, is perfectly correct, and in conformity with the desires of Her Majesty's Government as expressed to you by myself. If other persons have rendered themselves liable to legal penalties, I regret it, but am unable to prevent it, or shield them from the consequence of their own indiscretion."

You left that letter with me. As you may now wish to have it again, I beg leave to return it herewith.

I pass to a more recent period, and to another view of the subject.

After the trial and conviction of Henry Hertz in October last, and his subsequent confession, under oath, which appeared immediately afterwards, you instantly addressed a note to me, and afterwards favoured me with a call, in which you evinced an almost irrepressible desire and determination to take immediate proceedings, in any way most proper, to repel publicly, as you strongly insisted, the unfounded statements in that confession, so far as your name was involved. I regarded the subject in a different light, and endeavoured to dissuade you from your purpose. I thought, and said, that if there were no other motive for silence, the bare fact that the confession emanated from a person under conviction, ought to be sufficient, under the circumstances, to suggest the most absolute disregard, on your part, of every word that he said, as equally unworthy of yourself and the occasion; while the additional fact that sentence was impending, would equally diminish, with every reflecting reader, the value of every statement, even if otherwise entitled to notice. You yielded, at the close of a long interview, to the advice I gave you, though with evident reluctance.

Such is my recollection, and such my narrative, of the occurrences to which you refer. I hope it will be found to coincide with your own. Of course you are quite at liberty to use it as you may think fit.

After what I have said, I hope I am not venturing beyond the province of this communication, in expressing the concern, and I feel as if I might fairly add,

surprise, with which I have learned that a request has been made for your recall. Such a step, if determined upon, I need hardly say, would be a source of regret, real regret, both on public and personal grounds, to your numerous friends in this community, who had hoped for a long continuance of your acceptable official residence in this city. Such, you may be very sure, would be the sentiments of one who has had some opportunity of observing your course here, and who is happy to subscribe himself, &c.,

(Signed)

BENJN. RUSH.

Inclosure 4 in No. 74.

Affidavit of Mr. Howe.

I, JOSEPH HOWE, of Halifax, in the Province of Nova Scotia, do solemnly swear that a certain receipt published in a confession, purporting to have been made by one Henry Hertz, of Philadelphia, and including the name of Geo. B. Mathew, Esq., is a forgery, the original receipt not including that gentleman's name, but being thus expressed:

"Received of Honourable Mr. Howe three hundred dollars on account of expenses."

"Philadelphia, March 14, 1855.

(Signed)

"H. HERTZ."

(Signed)

JOSEPH HOWE.

Sworn to before me, at Halifax, this 20th day of November, 1855.

(Signed)

JNO. ESSON, J. P.

Inclosure 5 in No. 74.

Mr. Hertz to Consul Mathew.

Honourable Sir,

April 19, 1855.

I ASK a favour of you, which I know you, perhaps, will find intruding; but my behaviour allows me to think that I am personell considered as a gentleman by you.

I have a very pressed matter to see your Honour about, in the meantime is it a real personell matter. If your Honour not should like to see me, then do me the favour to tell me the address of Mr. Bucknell.

Your answer will oblige your obedient servant,

(Signed)

H. HERTZ.

Letter from Consul Mathew to Mr. Rush, inclosing the Note of which the above is a copy.

My dear Sir,

April 19, 1855.

I inclose a note received. I replied, "Mr. Mathew must decline any communication, does not know the address required, but concludes letters to the care of the gentleman's professional adviser would reach him."

Doubtless the other worthy is ashamed to show, and now prompts his colleague.

I need not repeat I have not one particle of interest with others.

I have neither the will or the cash to aid him myself.

If any further annoyance is experienced, I must place before the legal authorities the joint attempt to extort.

Yours always,

(Signed)

GEORGE B. MATHEW.

The following memorandum is endorsed, in Mr. Rush's handwriting, on the envelope of the above letter :

" 19th April,
 " with enclos. from Hertz,
 " Ac., same day, that I thought he had replied correctly."

Inclosure 6 in No. 74.

Affidavit of Mr. W. A. Dobbyn.

[See page 207.]

Inclosure 7 in No. 74.

Affidavit of Mr. Dendy Sharwood.

DENDY SHARWOOD, being duly sworn according to law, deposeth and saith, that he is one of the proprietors of Jones's Hotel, in Chesnut-street, of the City of Philadelphia; that in the spring of 1855 he was called upon by one Henry Hertz, a defendant in the suit of the "United States v. Henry Hertz, *et al.*," instituted in the District Court of the United States, for the Eastern District of Pennsylvania, shortly after it was publicly known that said Hertz had been arrested for an alleged violation of the Neutrality Laws of the United States. That the purport of the conversation between deponent and Hertz on that occasion was as follows:—Hertz remarked that he supposed that deponent knew about his arrest and why he had been so. Hertz stated that he had applied to Mr. Mathew (who had rooms at Jones's Hotel) for advice and assistance, but that Mr. Mathew had peremptorily refused to see him or to have anything to do with him or his business, and he now wished deponent to speak to Mr. Mathew on the subject, to which deponent replied that it was a business with which he had nothing to do, and with which he could not be mixed up. Hertz then replied that he must have some money, as he was in immediate want of it; that for some reason Mr. Mathew had always tried to avoid seeing him; that he, Mr. Mathew, seemed to have no confidence in him, and he, Hertz, wished deponent to assure Mr. Mathew that he was acting right in this matter. Deponent finally promised to tell Mr. Mathew Hertz called, and the nature of his communication; deponent accordingly spoke to Mr. Mathew on the subject on Mr. Mathew's return to the hotel on the evening of the day Hertz called. Mr. Mathew listened to deponent impatiently, and remarked more than once he believed Hertz was a scoundrel, trying to entangle him (Mr. Mathew) in his business, and that he would have nothing to do with him nor would he see him; he also advised the deponent to have nothing to do with Hertz; that he (Mr. Mathew) defied any threats of Hertz, having carefully and at all times refused to be mixed up with his affairs. Neither at the above interview with Hertz, nor at any subsequent one, did Hertz so express himself as to imply he had any claim on Mr. Mathew, but he seemed rather to suppose Mr. Mathew as a friend of Mr. Howe (with whom he represented he had had transactions) ought to advance him money, but he never in his conversation with deponent implied that he had any claim on Mr. Mathew either individually or officially. The next time Hertz called, deponent told him in few words Mr. Mathew's reply to his application: that Hertz then tried to borrow 200 dollars of deponent to enable him to go to Halifax; this deponent refused, because Hertz was a stranger to him, and because, from statements made about him, deponent did not believe him worthy of credit. That Hertz called several times on deponent after this, much to his annoyance, at each interview complaining how badly he had been treated by the authorities at Halifax, how they refused to acknowledge his actions and to pay him money which he had paid out of his own pocket. Deponent told him that if he had grievances against

the Government he ought to look to them for redress, and not attempt to involve Mr. Mathew in his difficulties or affairs.

Mr. Mathew has resided at Jones's Hotel for many months, and that on various occasions deponent conversed with Mr. Mathew on the question of the alleged enlistments; that Mr. Mathew has invariably denied being in any way concerned in the matter, and has invariably expressed himself as having been annoyed at the frequent attempts of Hertz and others seeking interviews with him, and which he has always endeavoured to avoid.

Deponent furthermore saith, that he became very much annoyed at the calls of Hertz, because several friends who had seen him in conversation with him, and who were ignorant of the nature of those conversations, expressed surprise that he should have anything to do with such a fellow, and that he should even know him.

Deponent furthermore saith, that Mr. Mathew has frequently in conversation with him, deponent, said he had constantly and persistently refused to have any knowledge of, or interfere with, Hertz' business, and that he, Mr. Mathew, defied any threats of Hertz', having carefully and at all times refused to be mixed up with his affairs.

That he, Mr. Mathew, had once made Hertz a private loan to enable him to go to Halifax, in order to get rid of him, and that this was on the occasion that Hertz had forced himself into his bedroom.

In witness whereof, he hath subscribed his signature, this twenty-ninth day of February, Anno Domini, one thousand eight hundred and fifty-six.

(Signed) DENDY SHARWOOD.

Sworn and subscribed before me, an Alderman in and for the City and County of Philadelphia, this 29th day of February, 1856.

(Signed) WILLIAMS OGLE, *Alderman*.

Inclosure 8 in No. 74.

Affidavit of Mr. Joseph P. Higgs.

JOSEPH P. HIGGS being duly affirmed, deposeth and saith, that he is and has been for three years last past sole book-keeper at Jones's Hotel, in this city; that his attention has been called to the statement of a certain Charles Burgthall, a witness in the case of the "United States v. Henry Hertz;" that the said statement of the said Burgthall, to wit: "Afterwards Mr. Howe visited me, with two or three gentlemen, and invited me to Jones's Hotel. I went to him, and dined with him and those other gentlemen. I informed him at dinner of my opinion in relation to the recruiting business, that it had been forbidden in the United States"—is, as regards his dinner at Jones's Hotel, deponent asserts, untrue. That deponent's recollection is corroborated by reference to the books of the hotel, in which all items and charges are invariably specified. That Mr. Howe arrived first at the hotel on the 12th of March, 1855, and left on the 14th; that he returned on the 25th, and finally left on the 26th March, since which deponent has not seen him. That during both visits, Mr. Howe took his meals at the public table, and that consequently no charge for private meals appears against him, and that no charge is entered in the books against him of any guest at the public table, which would have been the case had he invited any person there. Deponent further saith that there is no entry in the books of the hotel about that period of the name of Burgthall, or any similar name; and that there is no person of the name of "Hicks" in the establishment at Jones's Hotel, and that he believes himself to be designated under that name in the following statement in a document called the "Confession of Henry Hertz," to wit: "On the morning of the 14th of March I went to Jones's Hotel. Mr. Howe had left, but Mr. Hicks, the book-keeper of Jones's Hotel, handed me an envelope without an inclosure. On the fly or fold of the envelope were written these words, 'Go to Mr. Mathew; it is all right.'" Deponent saith that he never received or gave to Mr. Hertz any such paper on the day after Mr. Howe's departure.

Some time afterwards he received a sealed package, purporting to contain money, with a note in the handwriting, as deponent believes, of Mr. Howe,

requesting the same might be delivered to Mr. Hertz on his calling, which deponent accordingly did.

In witness whereof he hath subscribed his signature hereunto this 29th day of February, A.D. 1856.

(Signed) JOSEPH P. HIGGS.

Witnesses present at the signing hereof:

(Signed) HARMON OSLER, Jun.

WILLIAMS OGLE.

Affirmed and subscribed before me, an Alderman of the City of Philadelphia, this 29th day of February, 1856.

(Signed) WILLIAMS OGLE, *Alderman.*

Inclosure 9 in No. 74.

Affidavit of Mr. Thomas Lindsay Bucknall.

THOMAS LINDSAY BUCKNALL, of Ormond-terrace, in the county of Dublin, Esquire, maketh oath and saith, that he has read in an American newspaper, called "The Pennsylvanian," published on Saturday, the 13th October, 1855, a copy of a document purporting to be a confession of a person therein named Henry Hertz, respecting the enlistment of volunteers for the Foreign Legion, which was then forming at Halifax, Nova Scotia, in which this deponent is referred to by name: saith that most of the statements therein contained referring to this deponent, and his connection with the British Consuls in respect to said enlistment, is totally erroneous; and that after deponent's acquaintance with the Honourable Joseph Howe (which commenced on or about the 16th day of March, 1855), he the said Honourable Joseph Howe appeared to entertain a strong opinion against the said Henry Hertz; and that said Hertz was a man in whom the said Honourable Joseph Howe would not be at all likely to place any confidence. Deponent saith that the Mr. Mathew (mentioned in said Confession) never gave this deponent any money whatsoever to employ lawyers or otherwise, and saith that the said Mathew told this deponent that Hertz had tried to force himself on him (Mathew), but that he, Mathew, had refused to have anything whatever to say in said Hertz' business. Deponent saith he heard and believes that said Hertz had tried to extort money (by letters) from said Mathew, which letters deponent believes were put into the hands of Mr. Mathew's legal adviser. This deponent saith that he, this deponent, most positively denies ever having written or telegraphed to said Hertz in relation to said enlistment, or any other business whatsoever, and that the statement to that effect in said paper is totally false. Deponent further saith, that as to his knowledge of Mr. Crampton, the British Ambassador (named in said Confession), when this deponent saw him in Washington, and acquainted him of having left printed circulars at said Hertz's office, the said Mr. Crampton was greatly annoyed, fearing that it might be considered an infringement on the Neutrality Laws of the United States, and cause an ill-feeling between the two Governments, and requested deponent would call on Mr. Hertz and get back the said circulars. Deponent saith that as to Hertz' statement about his interview with deponent in New York, deponent wishes that no misunderstanding should exist as to Mr. Barclay, for though deponent called on him (Mr. Barclay) to consult him in the absence of the Honourable Mr. Howe, he declined conversing on the subject. And deponent positively saith that said Mr. Barclay in any conversation with deponent always disapproved of the proceedings, or even talking about the matter. Deponent further saith, that after said Hertz' trial was over, said Hertz told this deponent that unless the English Government, or their Consul, would pay his, Hertz', expenses, he would be revenged, and expose said Government in every way in his power.

(Signed) THOMAS LINDSAY BUCKNALL.

Sworn and signed before me, this 5th day of November, 1855.

(Signed) JAMES ABBOTT, *United States' Consul for Dublin.*

Inclosure 10 in No. 74.

Mr. Kane to Consul Mathew.

My dear Sir,

Sixth and Walnut Streets, November 14, 1855.

IT gives me very great pleasure to comply with the request contained in your note.

I do so because I understand the peculiarly unpleasant position in which you have been placed by the publication of the confession of Henry Hertz. *Were it not for this I would scarcely believe you to be serious in attaching importance to that production.*

At the close of last March I became connected, professionally, with the enlistment cases in this district. A young Englishman named Bucknall, whose calling was that of a civil engineer, had been arrested upon the charge of being one of the Agents of the British Government in procuring recruits for a Foreign Legion. He retained me as his counsel, and some time afterwards his case coming before the Federal Court upon a *habeas corpus*, he was discharged.

About that time Hertz and his counsel, Mr. Remak (Mr. Cuyler did not then act for him) called frequently at my office. Hertz, as any one must admit who has had the fortune to meet him, was not a desirable visitor. I did not discourage his visits, for my own client had been arrested on the same charge as himself, and I believed Hertz to be familiar with whatever transactions had induced the prosecution. I took pains, however, to impress upon his counsel in the outset, as well as upon himself, that there could be no communications from them to me that I would regard as made under the seal of professional confidence. The kind and honourable treatment which my own client, Mr. Bucknall, had met with at the hands of the District Attorney, Mr. Van Dyke, precluded my being the recipient of Hertz's confidence. Still the two gentlemen called on me a number of times, and conversed freely, and, as I then believed, without reserve upon the cases pending.

I have read the Confession through. The matters contained in it are certainly *inconsistent with the statements made by Hertz to myself*. I heard nothing from him of the interviews and correspondence with high public functionaries so plentifully distributed throughout that paper. Nor did he at any time represent himself other than as an agent for procuring hands on railroads and canals, who having read a proclamation of the Governor of Nova Scotia, thought to make his usual commission by forwarding to Halifax such as preferred the trade of soldiering to that of digging ditches or laying rails.

I also recall that he mentioned your name a number of times, said that he could get no funds out of you, and *seemed to think it hard that you would have nothing to do with him*.

An incident which, from its ludicrous character, remains fresh in my memory would confirm Mr. Hertz' statement as to his relations with yourself. I received a visit at my office from Mr. Rush the counsel of your Consulate and yourself, in reference to the case of the master of a British vessel, who having fallen into trouble, had employed my services. Mr. Rush and yourself entered my office, whilst Hertz and his attorney were in conversation with myself. Your manner towards both of them, to say the least, was cold, if not discourteous. Mr. Hertz, so far from claiming your acquaintance, seemed annoyed and embarrassed at your presence, and in a few moments, and I thought with some precipitation, took his leave. You afterwards cautioned me against him, and told me, I believe, that you had been obliged, on the occasion of a visit to yourself, to deny him your office.

This incident terminated Mr. Hertz' visits. The impression which it left upon my own mind was, either that he did not care to risk a second meeting with yourself, or that he considered me an ally of the enemy.

Since the publication of Hertz' Confession I have learned from a source entitled to the highest reliance, that although I am not mentioned by name in that paper, I am nevertheless indirectly referred to in a portion of it.

On page 104 of the printed report of the trial* you may read:—"When Mr. Bucknall was arrested, Mr. Mathew sent me word by a friend that he would be much obliged to me if I would not call or correspond with him any more in this case, as he had apprehensions that he was closely watched by the United

* See p. 114.

States' officers. The same friend of Mr. Mathew told me it would be best for me to go direct to Halifax."

I am told that Hertz, after he had concluded his confession before the United States' Commissioner, and after that paper had been signed and tested, in reply to a question put by the District Attorney, *stated that the friend of Mr. Mathew referred to was Mr. Kane.*

If Hertz referred to me, and I cannot doubt that he has so said, I am compelled to pronounce this portion of the Confession untrue. Upon mature reflection, I can recall no language of mine to Hertz which could have been misconstrued by him into the basis of such a statement.

I never was the bearer of any message whatever from yourself to Hertz. Familiar as I was with the conduct of the enlistment cases in this district, I never suspected that you were watched by the officers of the law, and I am very confident that no system of espionage was ever authorized or tolerated by my friend Mr. Van Dyke.

As to my suggestion of the propriety of a journey to Halifax, I can only say that my wishes on that point, however strong, never found an utterance in my own office.

In conclusion, my dear Sir, allow me to allude to the story of your having contributed to the payment of a portion of the expenses of Mr. Bucknall's defence. Mr. Bucknall was, as far as I could see, a deserving young man, who was in very needy circumstances. It is within my own knowledge that, by reason of the detention in Philadelphia, consequent upon his arrest, he lost the post of civil engineer upon a southern railway then in process of construction.

He would willingly have paid my fee, but I was satisfied that his small savings were nearly consumed, and I declined his offer. *He left the city, promising to pay me hereafter, and I required no better security than his word.*

Hoping that I have to some extent answered the inquiries contained in your letter, I am, &c.

(Signed) ROBERT P. KANE.

Inclosure 11 in No. 74.

Mr. Winsor to Consul Mathew.

Dear Sir,

Philadelphia, October 25, 1855.

I HAVE your note of yesterday, inquiring about the statements made by Henry Hertz in his Confession. Some three or four days ago I sent a communication to the Pennsylvanian newspaper for publication, in which I said, "Hertz' statements, so far as they relate to me, are essentially incorrect, and in some respects can be proved to be so." For some reason, to me unknown, the editor has not yet published my communication. In regard to his (Hertz') statement that I presented a letter to him from you, in which you requested me to get tickets from him, and furnish the people with free passage by schooner "Bonita," &c., I am sure he is wrong. I have no such letter, and no recollection of having had such; but I did receive a short note from you, saying that the captain of the "Bonita" found himself short of funds, and asking me if I could advance him some money on account of passengers, and this, no doubt, is the letter to which he refers.

This Mr. Hertz vexed me much by coming to my office, and I repeatedly told him that I knew nothing about the business he was doing, and did not wish to have anything to do with it; and I recollect that you expressed to me your annoyance at his procedure, and the way in which he forced himself on you.

I am, &c.

(Signed) HENRY WINSOR.

Inclosure 12 in No. 74.

Affidavit of Mr. Ernst Arland.

ERNST ARLAND being duly sworn according to law deposeth and saith, that he is employed as porter at Jones's Hotel, in the city of Philadelphia and State of Pennsylvania, and that his attention has been directed to certain state-

ments made in the Confession of Henry Hertz, a defendant in a prosecution in the District Court of the United States in and for the Eastern District of Pennsylvania, wherein is set forth among other things as follows, to wit: "afterwards I went out to take a walk with my wife, and walked down Chesnut-street, and met the porter of Jones's Hotel, John Allen I think his name is; he asked me if I had received the letter he had left at my house that day, as the British Consul had given strict orders that the letter should be delivered as soon as possible." Deponent saith that there is not any porter of the name of John Allen at Jones's Hotel; but the porter referred to is deponent: he remembers having met Henry Hertz as by him stated; but deponent did not state to Henry Hertz that he got from Mr. Mathew the letter aforesaid, for he, the deponent, had he done so, would have been guilty of misstatement, inasmuch as the letter left by him at the house of said Hertz, was received by deponent from another person with whom he is well acquainted at Jones's Hotel; and had no conversation with Mr. Mathew, the British Consul, in relation to said letter, either before its delivery or afterwards, until the Confession of Hertz had been made public, when Mr. Mathew called deponent's attention thereto as being untrue. When Hertz met the deponent he said that he had received the letter I had left at his house, and asked of deponent, "Is he come back?" I replied, "No." My answer had reference to Mr. Howe, whom deponent understood Hertz to refer to. Deponent never delivered any letter to Hertz, or at his house, that purported to be written by Mr. Mathew, or that was stated to have been written by him. Deponent furthermore saith, that he never delivered any other letters either to said Hertz, or at his house, except from Mr. Howe, when Mr. Howe was residing at Jones's Hotel, and which deponent received from Mr. Howe himself. On another occasion Henry Hertz met deponent, and said to him (deponent), "Oh! you remember about that letter; well, remember that letter was from Mr. Mathew, recollect that;" to which deponent replied, "I did not receive it from him, but from another person;" to which Hertz said, "Never mind, I tell you it was from Mr. Mathew." On another occasion deponent met Hertz near the guard-house in the city of Philadelphia, and asked Hertz, "Well, how are you coming on with your case?" Hertz said, "Oh that is nothing; it is all over now." In witness whereof he hath hereunto set his signature this 29th day of February, 1856.

(Signed) . . . ERNST ARLAND.

Witnesses present at signing:

(Signed) WILLIAMS OGLE.
J. MAQUAGE.

Sworn and subscribed before me, an Alderman in and for the City of Philadelphia, this 29th day of February, 1856.

(Signed) WILLIAMS OGLE, *Alderman.*

Inclosure 13 in No. 74.

Affidavit of Mr. M. A. Thoman.

[See page 205.]

Inclosure 14 in No. 74.

Second Affidavit of Mr. M. A. Thoman.

[See page 205.]

Inclosure 15 in No. 74.

Affidavit of Mr. W. Mehler.

[See page 206.]

Inclosure 16 in No. 74.

Second Affidavit of Mr. W. Mehler.

[See page 207.]

No. 75.

The Earl of Clarendon to Mr. Crampton.

Sir,

Foreign Office, March 20, 1856.

WITH reference to my despatch of the 4th instant, inclosing a copy of a note which I had addressed to Mr. Buchanan in reply to one from him upon the subject of the statement made by Viscount Palmerston in the House of Commons, with reference to the Recruiting Question, I transmit to you herewith, for your information, a copy of a further note upon the same subject from Mr. Buchanan, together with a copy of a letter which I have addressed to him in acknowledgment thereof.*

I am, &c.

(Signed) CLARENDON.

No. 76.

Mr. Crampton to the Earl of Clarendon.—(Received March 27.)

My Lord,

Washington, March 10, 1856.

I HAVE received from Mr. Barclay, Her Majesty's Consul at New York, a despatch, copy of which I have the honour herewith to inclose, dated the 1st instant, containing his remarks upon the charge of having violated the Neutrality Law of the United States, brought against him, in common with Her Majesty's Consuls at Philadelphia and Cincinnati and myself, in Mr. Marcy's despatch to Mr. Buchanan of the 28th of December last, as well as his reply to Mr. Marcy's unfounded complaint against him for improper conduct in the case of the barque "Maury."

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 76.

Consul Barclay to Mr. Crampton.

Sir,

New York, March 1, 1856.

I HAVE the honour to acknowledge the receipt of your despatch of the 26th ultimo, communicating to me, by the Earl of Clarendon's desire, the copy of a despatch from Mr. Marcy to Mr. Buchanan, dated the 28th of December last, and placed by Mr. Buchanan in Lord Clarendon's hands on the 29th of January last, which you have sent with a view to afford me an opportunity of replying to the charges which the Government of the United States has thus officially brought forward affecting my conduct in regard to the alleged recruitment in the United States of soldiers for Her Majesty's service, and also in regard to my proceedings in the case of the barque "Maury."

I inclose herewith my reply to those charges in a separate paper, and I am much obliged by his Lordship's consideration.

I return to you, as you desired, the copy of Mr. Marcy's despatch to Mr. Buchanan inclosed herewith.

I have, &c.

(Signed) A. BARCLAY.

Inclosure 2 in No. 76.

Reply to the Charges made by the Government of the United States against Her Majesty's Consul in New York.

IN reviewing the correspondence which has taken place between the Government of the United States and that of Great Britain, in regard to the enlistment of soldiers within the United States, by the agents and officers of the latter, for the British army, submitted to the President by Mr. Secretary Marcy in compliance with a resolution of the Senate of the 25th ultimo, I observe that the Secretary of State has, in his letter of the 28th December last to Mr. Buchanan, introduced me prominently into his charge of a breach of the Neutrality Laws of the United States, in the question of an enlistment; and has stepped out of the way of the requirement of the Senate's resolution by mixing up with it the matter of the seizure of the barque "Maury." I beg leave, therefore, to furnish you with some observations upon that letter of the Secretary of State, as far as it relates to me, on those two points.

Mr. Marcy, in his letter before mentioned of the 28th December, 1855, addressed to Mr. Buchanan, to which alone I shall refer in this communication, has been pleased to charge that "the proceedings for raising recruits for the British service in this country, resulted from instructions to Her Majesty's officers, here and in the British provinces, issued by the Ministers of the British Crown for that express purpose."

As Mr. Marcy has most emphatically included me, by name, in his charge against the British Government of recruiting in the United States, I take leave to say that, so far from being instructed to give any aid in that direction, the only instructions I received bearing on that subject were, to abstain carefully from committing or conniving at any breach of the Neutrality Laws of the United States, without the shadow of an opinion as to the interpretation of those laws, but leaving that matter to my own judgment.

In Mr. Secretary Marcy's before-mentioned despatch he says, "Nothing is known of Hertz which can affect his veracity, except the fact that he was engaged in recruiting for the British army within the United States, contrary to law, and has been convicted for that offence;" and it is allowable to allude briefly to Hertz' "account verified by his oath."

Verified by his oath indeed; and how was that oath obtained?

In the report of the case "United States *v.* Henry Hertz," in the District Court of the United States for the Eastern District of Pennsylvania (Philadelphia) taken in short-hand by James B. Sheridan, probably by the authority of the Judge and of the District Attorney of the United States, the last-named officer is represented to have addressed his Honour the Judge in open Court (October 12, 1855) in these words: "If the present defendant (Hertz) since his conviction *has contributed in any manner to aid the Government* in this investigation, and that aid has been the result of a sincere regret and repentance for his past conduct, it is, in my opinion, but just that he should have the benefit of his present conduct in the sentence which your Honour may see fit to pronounce in his case; I therefore move that the defendant's confession be read, and that it be filed of record among the proceedings in the case, to be duly considered by the Court in the judgment which may hereafter be pronounced against the defendant."

This is on the face of it an attempt to impose on the credulity of the public, to call Hertz' "confession" (as it is termed—confession should be gratuitous, not purchased), "the result of a sincere regret and repentance." Can any one doubt or deny that it was the *result* of a promise to Hertz, corresponding with the address of the District Attorney to the Court in Hertz' favour, "that he should have the *benefit* of his *present* conduct in the sentence which your Honour may see fit to pronounce in his favour," a promise of a mitigation of punishment?

What person, already infamous and under conviction subjecting him to heavy penalties of fine and imprisonment, would refuse to sign and to swear to any ingeniously devised paper which might be submitted to him for that purpose? The so-called "confession" is evidently not the eager unburthening of

the humble, penitent conscience of an uneducated man, but the deliberate, skilful composition of one that is crafty and not labouring under compunction.

The foregoing review of the proceedings in Hertz' case has been authorized by the fact, that on his trial testimony was allowed to be given by Hertz and Strobel to implicate me, who was not a party nor present in recruiting soldiers.

This Hertz tells a story of a Mr. Bucknall promising him to go to me and to procure money from me to be paid to Strobel, and says that "he (Bucknall) came and gave me 100 dollars, which I delivered to Mr. Strobel, less 5 dollars," leaving it to be inferred that as a matter of course the 100 dollars alluded to had been paid to the said Bucknall by me for the purpose referred to by Hertz. I declare that it is absolutely false that I ever paid Bucknall any money for the purpose alluded to, and that I ever paid any money whatever to be conveyed to Strobel.

Now for the testimony of Strobel, given on the trial of Hertz, as set forth at page 14 of James B. Sheridan's report thereof,* that Mr. Crampton gave him "a letter of introduction to the British Consul at New York, Mr. Barclay, in which he states that I am already acquainted with this matter, and that Mr. Barclay might receive me and talk with me about this subject, and that I should make preparations in New York for getting men;" from which it would appear that he intends the inference to be drawn that he delivered such a letter to me, and that I assisted in the object which he states that he had in hand. I declare that both parts of such intended inference are untrue—that he brought me no such letter, and that I never gave him any aid, money, or advice, for the object in question. If he had charge of any letter from Mr. Crampton for me, how was he to become acquainted with the contents? It is not the practice among gentlemen, even in familiar concerns, to give open letters, and persons in diplomatic stations observe that rule with more strict punctilio. I never knew Mr. Crampton, in all his varied and constant correspondence with me, to forward any one letter to me unsealed. Is it likely that if he had written, as Strobel says he did, on this delicate subject, he would have parted with the letter without guarding its contents from exhibition by Strobel by setting a seal to it?

It is true Mr. Marcy speaks of Strobel's having found his way into very good company at Halifax, and of his having been "invited to partake of the hospitalities of his Excellency Sir Gaspard le Marchant, of Colonel Clark, and the officers of the 76th Regiment, and of Colonel Fraser and Colonel Stotherd, and the officers of the Royal Artillery and Royal Engineers;" and then draws the following conclusion, "After such an endorsement of his character, it would seem that the testimony of Captain Strobel, even if it were uncorroborated, should command confidence."

Every man having the semblance of a gentleman is treated as such until he proves himself to be unworthy; such was the case with Strobel. But when he proved to be a reprobate, he was discarded at Halifax, and was procured a willing witness at Philadelphia "whose testimony should command confidence." On the trial he certainly made exposures of his own conduct which manifested a most extraordinary title to confidence.

Mr. Marcy remarks, that "beside the responsibility that rightfully attaches to Mr. Barclay for the *improper* conduct of an *employé* in his office, and under his immediate and daily observation, this Government is satisfied that he has himself not only favoured the recruiting for the British army, but has participated in it."

Such "improper conduct" on the part of an *employé* in my office has never been brought to my knowledge. But if the charge were true against him, to consider me responsible, under a penal law of the United States, for the conduct—neither authorized by, nor known to, me—of an *employé* in my office, is not less arbitrary, unjust, and inconsistent with the law of every free Government, than it would be to make me responsible, under the legislative Acts of the State of New York against gambling, if an *employé* in my office had amused himself in that fashionable vice.

As to the remark of the Honourable Secretary, that "this Government is satisfied that he has himself not only favoured the recruiting for the British army, but has participated in it," I assert, without fear of contradiction, unless by suborned or perjured witnesses, that I neither favoured the recruiting for the British army, nor participated in it, nor am I informed of the hiring, or

* See p. 46.

retaining, or engaging any one or more men for the purpose; but I do know that confessed Russian emissaries, and other persons in familiar intercourse at the building where the United States' Marshal's and the District Attorney's offices are, were, for some time, engaged in frequent visits to this office, hanging about it on shallow pretexts of business or inquiry; and who will believe that, under the appetency of the Attorney-General of the United States, to convict "every Consul of Great Britain in the United States," as he expressed himself in his letter of the 17th of September, 1855, to Mr. United States' Attorney Van Dyke, at Philadelphia, all and every of the persons before mentioned, would have abstained from making specific charges against me, if they had discovered even a shadow of suspicion in support of an accusation?

The quotation last made from Mr. Marcy's letter is followed by another charge of offence given by me, on another subject, in these words:

"Moreover, the improper conduct of Mr. Barclay in the case of the barque 'Maury,' has justly given offence to the commercial community in which he resides, and with which he has official connexion."

It is easy to make attacks by means of epithets, but why did not Mr. Marcy resort to a substantial statement of the impropriety in my conduct? He seems to forget that I was not appointed Consul merely to serve the views, and to seek after the favour, of the commercial community in which I reside, and with which I have official connection. I would indeed highly appreciate that favour, when it might be the result of the faithful discharge of my duties. A portion of those duties belongs, however, to the Government I serve; and it was under a full conviction, which I still entertain, that those duties required that I should transmit, to be laid before the Government at Washington, the information which I received against the barque 'Maury,' that I forwarded it for that purpose. That finished my part in the matter. The information was furnished by credible and respectable persons. The facts charged were generally correct, and amply sufficient to justify suspicion of intentions to infringe the Neutrality Laws. The conduct of Mr. Barclay is spoken of: conduct generally applies to action, or the direction of action; and that was not Mr. Barclay's, but Mr. Secretary Marcy's, in conjunction with the Attorney-General of the United States. That same commercial community before mentioned, represented by the Chamber of Commerce, among several other laxly-made statements, have set forth that Mr. Barclay swore to the libel against the "Maury," which was, and is, untrue; but the assertion served to relieve United States' officers of what was considered an odium, and now that community receives a grateful return, in Mr. Marcy's instruction to Mr. Buchanan, "to ask the Government of Great Britain to withdraw Mr. Barclay from the post of British Consul at New York."

The sin, in popular estimation, of those who directed action in the case, and the consequent odium, can be removed, and popularity with the influential "commercial community" of New York be restored, only by transferring them to the shoulders of the British Consul, and making him the victim and the atonement.

I may here add, that it was made a prominent ground of complaint by the owners of the "Maury," and was readily adopted by the New York Chamber of Commerce, that the barque "Maury" had been advertised for several weeks in the New York "Shipping List," for Shanghai, and that by reference to that list, I might have discovered who the owners were, and have obtained explanation from them.

This representation is a shameful departure from candour. A barque, called in the "Shipping List" the "Mary Fletcher," ——— with the ———, to signify the space for the name of a master, was the only vessel advertised by those owners, until the 13th of October, 1855, which was one day after movement was made for putting the information into the shape of affidavits, when the barque "Mary Fletcher" no longer appeared there, but the barque "Maury;" and then, after the libel was filed, one of the owners called and told me that I might have found out the owners, in search of explanation from them, by turning to the said list, where she had been advertised for a month, with reference made to them by name.

(Signed) ANTHONY BARCLAY.

New York, March 1, 1856.

Mr. Crampton to the Earl of Clarendon.—(Received March 27.)

(Extract.)

Washington, March 10, 1856.

IN commenting, in my despatch of the 3rd instant, upon the statements contained in Mr. Marcy's despatch to Mr. Buchanan of the 28th of December last, respecting the alleged violation of the Neutrality Laws of the United States by Her Majesty's Consular and Diplomatic Agents in this country, I did not advert to a matter which Mr. Marcy has thought proper to introduce into that despatch, although entirely foreign to the main subject of which it treats.

I allude to Mr. Marcy's complaint against Her Majesty's Consul at New York for what he designates "Mr. Barclay's improper conduct in the case of the barque 'Maury.'"

Mr. Barclay's explanation of his conduct in that matter, which I have the honour to inclose in my despatch of this day's date, will, I have no doubt, entirely satisfy your Lordship of the correctness of Mr. Barclay's proceedings in the case of the "Maury," and will further show that it is Mr. Barclay, and not Mr. Marcy, or the "commercial community of New York," who has reason to complain of the manner in which he has been treated.

According to Mr. Marcy's view, however, part of the culpability which might attach to Mr. Barclay in the matter would attach to myself; and it is for the purpose of calling your Lordship's attention to an inaccuracy in Mr. Marcy's statement as to the nature of my action in the case that I write this despatch.

Mr. Marcy says, in speaking of the case of the "Maury" (see page 143):—

"Not long since, Her Majesty's Minister, Mr. Crampton, represented to this (the United States') Government that the barque 'Maury' was being fitted out in the port of New York as a privateer, to depredate upon the commerce of the allies."

Now, my Lord, Mr. Marcy could scarcely have had my note of the 11th of October last before him when he made that statement; and yet the correctness of that statement is essential to the argument which he attempts to build upon it.

A reference to my note* will show at once that I made no such representation or assertion, or even expressed any confident belief that the "Maury" was "being fitted out as a privateer, to depredate upon the commerce of the allies." All that I did, was to submit certain documentary evidence to the United States' Government, presenting *prima facie* evidence of the probability of that or some other hostile intention on the part of the owners of the vessel, who were then unknown; and asking, as it was my duty to do under such circumstances, for an inquiry as to whether such was really the case or not.

It would appear that Mr. Marcy and the Attorney-General of the United States agreed with me that the evidence was sufficient to call for inquiry, for they caused inquiry to be made.

Mr. Marcy, however, now seems to doubt that the evidence I submitted to him could be called evidence at all; consisting of affidavits containing loose rumours, and some circumstances about the equipment of the vessel which justified a bare suspicion of an illegal purpose.

What else, I would ask Mr. Marcy, did my note represent than that the circumstances detailed in these affidavits justified suspicion of an illegal purpose? and if they did justify suspicion of an illegal purpose, was it not my duty to bring that suspicion to the knowledge of the United States' Government, and ask for an inquiry?

It is easy, after an inquiry has resulted in the removal of the suspicions entertained, to deduce from such a result the original insufficiency of the evidence, and to call the suspicion a "bare suspicion," founded upon "loose" statements.

But, according to the principle which Mr. Marcy tacitly adopts and acts upon in regard to Mr. Barclay, no judicial investigation whatever could be adopted for

* See p. 157.

the detection and punishment of any crime or misdemeanour which should result in the acquittal of the suspected parties, without improper conduct being imputed to all the parties taking part in that investigation.

If a man is tried for a crime and acquitted, can he turn round and accuse the magistrate who committed him, and the judge and jury who tried him, and the witnesses who appeared against him, of "improper conduct?" He may, indeed, impugn each or all of them, but it must be on the grounds that they have been actuated by malice in making the charge, and have supported it by perjury; and this he is bound to prove.

Has anything of the sort been attempted in Mr. Barclay's case?

I much regret, my Lord, that Mr. Marcy, while he has been so fully alive to the looseness of the evidence in the case of the "Maury," should have been so far led away by what looks like eagerness to inculpate Her Majesty's Diplomatic and Consular Agents in this country, as himself to make so loose a statement, as it certainly is to say that a note represents *a thing as actually being done* when that note represents simply that *there is ground to suspect* that a thing is being done, and consequently ground for inquiry *as to whether it is being done or not*.

No. 78.

Mr. Crampton to the Earl of Clarendon.—(Received March 27.)

(Extract.)

Washington, March 10, 1856.

I HAVE received from Mr. Rowcroft, Her Majesty's Consul at Cincinnati, a despatch, copy of which I have the honour herewith to inclose, dated the 3rd instant, containing his remarks upon the charge of having violated the Neutrality Law of the United States, brought against him, in common with Her Majesty's Consuls at New York and Philadelphia, and myself, in Mr. Marcy's despatch to Mr. Buchanan of the 28th of December last.

Inclosure in No. 78.

Consul Rowcroft to Mr. Crampton.

(Extract.)

Cincinnati, March 3, 1856.

I HAVE the honour to acknowledge the receipt, on the evening of the 1st instant, of your Excellency's despatch of the 26th ultimo, with its accompanying copy of Mr. Marcy's letter to Mr. Buchanan of December 28, 1855.

With respect to the charges contained in Mr. Marcy's letter, I do not find any relating to me, with the exception of the last but four of the concluding paragraphs of that letter, in which it is said:—

"Mr. Rowcroft, the British Consul at Cincinnati, and Mr. Mathew, the British Consul at Philadelphia, are implicated in the recruiting project, and you are further directed to ask for their removal for that cause."

This is the only part of Mr. Marcy's letter in which my name is mentioned or even alluded to; and to the general charge conveyed I can only reply by a general denial.

But I cannot confine myself to a general denial in this communication to your Excellency. I will, therefore, recapitulate the facts of the case in respect to the prosecution commenced against me for enlisting soldiers for Her Majesty's service at Cincinnati.

On the 10th of July of last year (1855) I was arrested on the charge of enlisting men for Her Majesty's service. The preliminary examination of the case before Mr. Commissioner Warden disclosed the fact, that a party of Irish Roman Catholics naturalized in the States, had concocted a plot to entrap me into an infringement of the Neutrality Law. The report of that examination shows how that conspiracy was attempted to be carried into effect. Subsequent information has convinced me that the Executive American Government and the Roman Catholic priesthood at Cincinnati were privy to that plot, and that the infamous snare was invented, or at least encouraged, at Washington.

In respect to this point it is remarkable that the same parties who were the ostensible leaders of the plot to entrap me, with the avowed object of forcing me to leave Cincinnati, namely, Conahan, Halpin, and Reidy, were the same parties who, at that same time, were engaged in a conspiracy "to begin and set on foot and provide the means for" exciting insurrection in Ireland, and for aiding it by an armed force from this country.

I think it clear that the plot to entrap me, and the conspiracy to invade Ireland, were one and the same project; that the object of effecting my removal from Cincinnati was to get rid of one whom their fears suspected might be observant of their proceedings in respect of their project of invading Ireland, and various circumstances confirm my belief that both conspiracies were all along known to the American Executive Government.

It is publicly known that in July of last year—under the prosecution of Mr. Jewett, the Government District Attorney—Mr. Commissioner Warden, to the great surprise of many, held me to bail; and it is publicly known that in January of this year, to the great amazement of many, the Irish conspirators—Mr. Jewett declining to attend—were not held to bail. So that it appears that the same Neutrality Law which could, on very questionable evidence, reach the British Consul, could not, on the abundant and unquestionable evidence adduced, reach the Irish conspirators, which seems to show very clearly that this Neutrality Law has a strangely one-sided action.

But to proceed with my own enlistment charge:—In October the case was taken by Mr. Jewett before the Grand Jury, and a true bill, as might have been expected under the circumstances, was found against me and the others charged with the infringement. The trial is at present fixed for April.

This being the state of the case, I will confine myself to saying that I have never enlisted any men, nor engaged any men, or one man, to enlist in the British service; I have been obliged to talk, however, with many who have presented themselves at my office for the purpose of joining the British army. But my answer has invariably been, "I cannot engage you, and I can make no agreement with you," or words to that effect.

Many have come to me for information, or have pretended to come for it; in such cases I have given them the information, which was in fact known to all the world, but I have constantly refused to have anything to do with enlistments or with the hiring of men, on every occasion.

No. 79.

Consul Mathew to the Earl of Clarendon.—(Received March 27.)

(Extract.)

Philadelphia, March 10, 1856.

I HAVE the honour to inclose three affidavits (copies of the originals sent to Mr. Crampton) from respectable residents of this city, respecting the character of H. Hertz.

I was unwilling to delay my despatch of the 4th of March for these documents, which I beg to solicit may be attached to it.

Inclosure 1 in No. 79.

Affidavit of Mr. Andrew C. Craig.

State of Pennsylvania, City of Philadelphia, ss.

PERSONALLY appeared before me, the subscriber, an Alderman and Justice of the Peace in and for the City of Philadelphia, aforesaid, Andrew C. Craig, who, being sworn, says, That he has resided in the City of Philadelphia about thirty years, and that he is in business in Front-street in said city. Deponent says that he knows Henry Hertz who was tried and convicted in the United States' District Court for being engaged in recruiting for the British Government here; deponent says that he was on the grand jury of the said Court before whom the case was inquired into; deponent says that he knew the said Henry Hertz three or four months before the said trial, that he was employed by deponent to make sales for him as a street broker, and was in his

employment about two months. Deponent says from his knowledge of the said Henry Hertz, he has no hesitation in saying that he does not think him worthy of credit; that he would not take his word for anything he would say in regard to money matters. The reason that he left the employment of the deponent was because deponent could not trust him. Deponent says that the said Hertz is, he believes, a Russian, speaks several languages, is a very smart man, and is one of the best salesmen he ever saw if he could only be trusted, or confidence placed in what he said.

(Signed) AND. C. CRAIG.

Sworn and subscribed before me, this 5th day of March, 1856.

(Signed) JNO. B. KENNEY, *Alderman.*

Inclosure 2 in No. 79.

Affidavit of Mr. Franklin Butler.

[See Inclosure 8 in No. 72.]

Inclosure 3 in No. 79.

Affidavit of Mr. Philip R. Scherr.

State of Pennsylvania, City of Philadelphia, ss.

BEFORE me, the subscriber, an Alderman and Justice of the Peace in and for the city of Philadelphia, personally came Philip R. Scherr, who, being by me duly sworn, deposes and says, that he resides in the city of Philadelphia, and is a rectifier or distiller of liquors; that he knows one Henry Hertz, and has known him over three years; that he was employed by deponent as salesman, and was in that employment for two months; his business was that of selling goods and collecting money; that he collected money to the amount of 1,500 dollars and upwards, which he did not account for or pay over; that he has not paid it over to this day. Deponent says, from his knowledge of the said Henry Hertz, he believes him to be entirely unworthy of trust and confidence, and deponent would not believe him on his oath.

(Signed) P. R. SCHERR.

Sworn and subscribed before me, this 7th day of March, 1856.

(Signed) JNO. B. KENNEY,
Alderman and Justice of the Peace.

No. 80.

Mr. Crampton to the Earl of Clarendon.—(Received March 27.)

(Extract.)

Washington, March 9, 1856.

I SEND you herewith copies of letters which have passed between myself and Sir Gaspard le Marchant, in regard to the stopping the recruitment, in case the accusation to which I alluded in my last letter should be reproduced to you.

Inclosure 1 in No. 80.

Mr. Crampton to Sir Gaspard le Marchant.

(Extract.)

Washington, January 13, 1856.

THERE is one story which I want your assistance in demolishing. I know the assertion to be false, but I wish to have it under your hand, that it is so, as far as you are concerned.

Mr. Cushing then openly asserts that he knows and can prove that

we—you and I—went on with the recruitment long after Lord Clarendon said we had been ordered to stop it.

Now, how are the facts? Lord Clarendon announced this to Mr. Buchanan in a note dated the 16th of July, a copy of which I received somewhere about the 2nd of August. I immediately telegraphed to Lieutenant Preston to break up his station at Niagara, and not receive another man. I know he obeyed. People who were ready to start from New York were stopped. I also lost no time in communicating with you, in case you should not have heard from home.

As there were no other places where recruits could be received but Niagara and Halifax, all we want is the dates at which the last man was received from the United States.

We are, of course, not accountable for any spontaneous attempts to recruit in the United States by individuals on their own account after that date; all we have to show is, that we received none. I believe, in fact, none presented themselves either at Niagara or Halifax after the time in question, but if they had done so they certainly would not have been received.

Inclosure 2 in No. 80.

Sir Gaspard le Marchant to Mr. Crampton.

(Extract.)

Government House, January 19, 1856.

I INFER from your note to me of the 13th instant, that it has been asserted in the United States, that it is known and can be proved that I went on recruiting, long after orders had been received from Lord Clarendon for stopping proceedings in relation thereto.

The following are the facts of the case so far as I am concerned:—

My instructions on this subject, the only instructions that I received from any source, were conveyed in two notes dated respectively, the 5th and the 13th of August last, both of which reached me about the same time, the first by the land route, the second by the Cunard mail steamer.

From the former I learned, that a written assurance had been given by Lord Clarendon to Mr. Buchanan, that all proceedings for procuring soldiers for Her Majesty's service from the United States had been abandoned.

The latter which reached me on the morning of the 17th of August, informed me that you had apprized the Government of the United States that, in consequence of the correspondence which had taken place between Mr. Buchanan and Lord Clarendon, no more recruits would be received from any part of the Union in our colonies.

The instruction thus imparted to me was distinct and positive; and I at once felt it my duty to obey it to the letter as well as in its spirit. You will find that I have done so; and I may add that, if you should require any more solemn declaration, on my part, to that effect, I shall be most happy to have it prepared and transmitted to you.

The last men received by me at Halifax from the United States, for the purpose of enlistment, were brought over in two parties, whereof nineteen arrived on the 13th of August, and thirteen on the 16th of that month.

Thus you will perceive, by regarding this fact in connection with the time of my receipt of your definitive instructions, which reached me, as I have already stated, on the 17th of August, that not only must these men have been procured, in the United States, long antecedently to the last-mentioned day, but that they were actually received here previously thereto.

I beg leave further to state that, although Mr. ———, by whom the last recruits were introduced, expressed his most anxious desire that I would receive, through him from the United States, a further supply of men, for the purpose of enlistment—men who, as he asserted, had actually arranged to come over to Halifax for that purpose before the time to which the assurance given by Lord Clarendon to Mr. Buchanan was understood to refer—I peremptorily refused to comply with his request.

Mr. Crampton to the Earl of Clarendon.—(Received April 1.)

My Lord,

Washington, March 14, 1856.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of February 20, transmitting to me copies of a correspondence which your Lordship has had with the United States' Minister in London, relative to a statement made by Viscount Palmerston on the 15th ultimo in the House of Commons as to the satisfaction expressed by Mr. Buchanan with the explanations given in your Lordship's note to that Minister of the 16th of July last, on the subject of the Recruiting Question.

As Mr. Buchanan in his note to your Lordship of the 22nd ultimo does not make it very clear in what degree the difference of opinion between Lord Palmerston and himself, to which he refers, subsists, it may be satisfactory to Lord Palmerston to be able to refer to Mr. Buchanan's own words as to the real nature and extent of the impression produced upon him by the explanation contained in your Lordship's note.

A full statement both of the nature of that impression and of the grounds of it, are fortunately to be found in a despatch from Mr. Buchanan to Mr. Marcy, dated the 30th of October last, published among the documents regarding the Recruitment Question lately submitted to Congress, and inclosed in my despatch of the 3rd instant.

For more ready reference I inclose a copy of it herewith.

The words expressing the impression produced on Mr. Buchanan by your Lordship's note of July 16th are as follows: "Now these measures (for arresting further proceedings in the recruitment) had been already adopted, but could not possibly have been known to you (Mr. Marcy); *Lord Clarendon's note had entirely changed the aspect of the case from the view you took of it*, and must necessarily have taken of it at the date of your No. 102 (of July 15).

"The general tenour of this note, its disavowals and its regrets, was certainly conciliatory; and the concluding paragraph, declaring that all proceedings for enlistment in North America had been put an end to by Her Majesty's Government for the avowed reason that the advantage that Her Majesty's service might derive from such enlistments would not be sought for by Her Majesty's Government if it were supposed to be obtained in disregard of the respect due to the laws of the United States, was HIGHLY SATISFACTORY. *It was for these reasons that I expressed the SATISFACTION I would have in communicating it to you.*"

It thus appears by Mr. Buchanan's own showing that he himself thought your Lordship's note *highly satisfactory*; so much so, that he states himself in the same despatch, that he did not act on the instructions conveyed to him by Mr. Marcy in his despatch No. 102 of the 15th July, to renew his representations to Her Majesty's Government on the subject of the alleged recruitment.

It seems difficult to conceive, therefore, that Mr. Buchanan would have expressed himself as he did in the above-quoted passage of his despatch of the 30th October, or have taken the decided step of not acting upon Mr. Marcy's instruction of the 15th July, if he had not, to use Lord Palmerston's expression, "felt confident his Government would entertain a similar feeling to his (Mr. Buchanan's) own in regard to your Lordship's explanation."

With regard to the grounds upon which Mr. Buchanan informed your Lordship on the 29th of October, that he had changed this favourable opinion of your Lordship's explanation, viz., my complicity, of which he had become convinced, in the recruitment of soldiers for the British army within the territories of the United States, I have only to observe that I presume Mr. Buchanan must mean thereby my having wilfully violated the Neutrality Law of the United States, contrary to the express instructions of Her Majesty's Government (which I deny having done); for in regard to my "complicity" or aid in carrying out legitimately the view of Her Majesty's Government, avowed by them to have been entertained, of obtaining soldiers by enlistments in North America, and the abandonment of which views by Her Majesty's Government gave Mr. Buchanan such high satisfaction, it is evident that information afterwards received of such complicity or aid on my part could in no way change the aspect of the question; for it was naturally to be inferred that some aid or countenance on my part

would necessarily have been given to any plan for the advantage of Her Majesty's service in which this country was at all concerned ; and it is scarcely to be supposed that Mr. Buchanan or his Government can feel satisfied with Her Majesty's Government for having abandoned certain proceedings for the advantage of Her Majesty's service, and yet still feel dissatisfied with me for assistance I may have given to those proceedings before they were abandoned.

I will conclude by remarking that it still appears singular that Mr. Buchanan, having thus, as he has stated to your Lordship, changed his opinion unfavourably in regard to the satisfactory nature of the explanations of your Lordship's note of the 16th July, in consequence of a despatch received from Mr. Marcy on the 28th of September, should not have acquainted your Lordship with that change or with the ground of it before the 29th of October ; for it is strange that Mr. Buchanan should have thought that the communication to your Lordship of so important a fact, as that an explanation which he had thought to be entirely satisfactory in regard to a question threatening the friendly relations of the two Governments, was no longer considered to be so by him or his Government, did not constitute business of a sufficiently urgent nature to induce him to break in upon what he considered to be a season of recreation from official business in London.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure in No. 81.

Correspondence between the Governments of the United States and Great Britain, in regard to Recruiting for the British Army within the United States : together with the Documents and Evidence relative to that subject, communicated to the Senate of the United States on the 28th of February, 1856.

To the President of the United States :

THE Secretary of State, to whom was referred the resolution of the Senate of the 25th instant, requesting the President, if not incompatible with the public interest, to communicate to that body "the correspondence which has taken place between this Government and that of Great Britain, in regard to the enlistment of soldiers within the United States by the agents and officers of the latter for the British army, accompanied by such evidence and documents as the President may deem proper to show the connection of these agents and officers with the alleged violation of our laws and sovereign rights," has the honour to lay before the President the papers mentioned in the subjoined list.

All of which is respectfully submitted.

(Signed) W. L. MARCY.

*Department of State, Washington,
February 27, 1856.*

List of Papers accompanying the Report of the Secretary of State to the President, of February 27, 1856.

- Mr. Crampton to Mr. Marcy, April 21, 1854.
 - Mr. Marcy to Mr. Crampton, April 28, 1854.
 - Lord Clarendon to Mr. Crampton, April 12, 1855.
 - Mr. Marcy to Mr. Buchanan, June 9, 1855.
 - Mr. Buchanan to Mr. Marcy (extract), July 13, 1855, with an accompaniment.
 - Mr. Marcy to Mr. Buchanan, July 15, 1855.
 - Mr. Buchanan to Mr. Marcy (extract), July 20, 1855, with an accompaniment.
 - Mr. Buchanan to Mr. Marcy (extract), August 3, 1855.
 - Mr. Marcy to Mr. Crampton, September 5, 1855.
 - Mr. Crampton to Mr. Marcy, September 7, 1855.
 - Mr. Marcy to Mr. Buchanan, September 8, 1855.
 - Mr. Buchanan to Mr. Marcy (extract), September 28, 1855, with accompaniments.
 - Mr. Marcy to Mr. Buchanan, October 1, 1855.
 - Mr. Buchanan to Mr. Marcy (extract), October 3, 1855.
 - Mr. Buchanan to Mr. Marcy (extract), October 30, 1855.
 - Mr. Marcy to Mr. Buchanan, October 13, 1855.
 - Mr. Buchanan to Mr. Marcy, November 2, 1855.
 - Mr. Buchanan to Mr. Marcy (extracts), November 9, 1855.
 - Lord Clarendon to Mr. Crampton, November 16, 1855.
 - Mr. Marcy to Mr. Buchanan, December 28, 1855.
 - Mr. Buchanan to Mr. Marcy (extract), February 1, 1856.
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*Mr. Crampton to Mr. Marcy.**Washington, April 21, 1854.*

The Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America, has received orders from his Government to make to the Secretary of State of the United States the following communication :

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of the French, being compelled to take up arms for the purpose of repelling the aggression of His Majesty the Emperor of Russia upon the Ottoman Empire, and being desirous to lessen as much as possible the disastrous consequences to commerce resulting from a state of warfare, their Majesties have resolved, for the present, not to authorize the issue of letters of marque.

In making this resolution known, they think it right to announce, at the same time, the principles upon which they will be guided during the course of this war with regard to the navigation and commerce of neutrals.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has accordingly published the accompanying declaration, which is identical with that published by His Majesty the Emperor of the French.

In thus restricting within the narrowest limits the exercise of their rights as belligerents, the allied Governments confidently trust that the Governments of countries which may remain neutral during this war will sincerely exert every effort to enforce upon their subjects or citizens the necessity of observing the strictest neutrality.

Her Britannic Majesty's Government entertains the confident hope that the United States' Government will receive with satisfaction the announcement of the resolutions thus taken in common by the two allied Governments, and that it will, in the spirit of just reciprocity, give orders that no privateer under Russian colours shall be equipped, or victualled, or admitted with its prizes, in the ports of the United States, and also that the citizens of the United States shall rigorously abstain from taking part in armaments of this nature, or in any other measure opposed to the duties of a strict neutrality.

The Undersigned, &c.

(Signed)

JOHN F. CRAMPTON.

*Mr. Marcy to Mr. Crampton.**Department of State, Washington, April 28, 1854.*

The Undersigned, Secretary of State of the United States, has had the honour to receive the note of Mr. Crampton, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, of the 21st instant, accompanied by the declaration of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, in regard to the rule which will for the present be observed towards those Powers with which she is at peace, in the existing war with Russia.

The Undersigned has submitted those communications to the President, and received his direction to express to Her Majesty's Government his satisfaction that the principle that "free ships make free goods," which the United States have so long and so strenuously contended for as a neutral right, and in which some of the leading Powers of Europe have concurred, is to have a qualified sanction by the practical observance of it in the present war by both Great Britain and France.—two of the most powerful nations of Europe.

Notwithstanding the sincere gratification which Her Majesty's declaration has given to the President, it would have been enhanced if the rule alluded to had been announced as one which would be observed not only in the present, but in every future war in which Great Britain shall be a party. The unconditional sanction of this rule by the British and French Governments, together with the practical observance of it in the present war, would cause it to be henceforth recognized throughout the civilised world as a general principle of international law. This Government, from its very commencement, has laboured for its recognition as a neutral right. It has incorporated it in many of its

Treaties with foreign Powers. France, Russia, Prussia, and other nations, have in various ways, fully concurred with the United States in regarding it as a sound and salutary principle, in all respects proper to be incorporated into the Law of Nations.

The same consideration which has induced Her Britannic Majesty, in concurrence with the Emperor of the French, to present it as a concession in the present war, the desire "to preserve the commerce of neutrals from all unnecessary obstruction," will, it is presumed, have equal weight with the belligerents in any future war, and satisfy them that the claims of the principal maritime Powers, while neutral, to have it recognized as a rule of international law, are well founded, and should be no longer contested.

To settle the principle that "free ships make free goods," except articles contraband of war, and to prevent it from being called again in question from any quarter, or under any circumstances, the United States are desirous to unite with other Powers in a declaration that it shall be observed by each, hereafter, as rule of international law.

The exemption of the property of neutrals, not contraband, from seizure and confiscation when laden on board an enemy's vessel, is a right now generally recognized by the Law of Nations. The President is pleased to perceive, from the declaration of Her Britannic Majesty, that the course to be pursued by her cruisers will not bring it into question in the present war.

The Undersigned is directed by the President to state to Her Majesty's Minister to this Government that the United States, while claiming the full enjoyment of their rights as a neutral Power, will observe the strictest neutrality towards each and all the belligerents. The laws of this country impose severe restrictions not only upon its own citizens, but upon all persons who may be residents within any of the territories of the United States, against equipping privateers, receiving commissions, or enlisting men therein, for the purpose of taking a part in any foreign war. It is not apprehended that there will be any attempt to violate the laws; but should the just expectation of the President be disappointed, he will not fail in his duty to use all the power with which he is invested to enforce obedience to them. Considerations of interest and the obligations of duty alike give assurance that the citizens of the United States will in no way compromise the neutrality of their country by participating in the contest in which the principal Powers of Europe are now unhappily engaged.

The Undersigned, &c. (Signed) W. L. MARCY.

[Same, *mutatis mutandis*, to the Count de Sartiges.]

The Earl of Clarendon to Mr. Crampton, April 12, 1855.

[See No. 15.]

Mr. Marcy to Mr. Buchanan.

(No. 91.)

Sir, *Department of State, Washington, June 9, 1855.*

Some time since, it became known that a plan was on foot to enlist soldiers within the limits of the United States to serve in the British army, and that rendezvous for that purpose had been actually opened in some of our principal cities. Besides being a disregard of our sovereign rights as an independent nation, the procedure was a clear and manifest infringement of our laws, enacted for the express purpose of maintaining our neutral relations with other Powers. It was not reasonable to suspect that this scheme was in any way countenanced by the British Government, or any of its subordinate authorities resident within the United States or in the British North American Provinces; but a further examination into the matter has disclosed the fact that it has had not only the countenance, but the active support of some of these authorities, and, to some extent, the sanction of the British Government.

When intimations were thrown out that the British Consuls in this country were aiding and encouraging this scheme of enlistment within our limits, Mr. Crampton, Her Britannic Majesty's Minister to this Government, showed me

the copy of a letter which he had addressed to one of them, disapproving of the proceeding, and discountenancing it as a violation of our laws. After this act on the part of the British Minister, it was confidently believed that this scheme, however it may have originated, and with whatever countenance it might have been at first looked on by British functionaries, would at once have been abandoned. This reasonable expectation has not been realized; for efforts to raise recruits within the United States for the British army have not been intermitted, but are still prosecuted with energy. To arrest a course of proceedings which so seriously compromised our neutrality, prosecutions, by order of the Government, were instituted against the offenders. This led to developments which established the fact that the Governor of Nova Scotia, apparently with the knowledge and approval of Her Majesty's Government, had a direct agency in this illegal proceeding.

I herewith send you a copy of an order or notification which has been published in our newspapers, and believed to be genuine, purporting to have been issued by that functionary. It clearly appears from this document that the recruits were to be drawn from the United States; that the engagements with them were to be made within our limits, in open violation of the second section of the Act of Congress of the 20th April, 1818; and that British officials were the agents furnished with the means for carrying the illegal measure into effect. These agents have been engaged within our jurisdiction devoting themselves to the execution of this plan.

Notwithstanding the legal measures taken by the officers of the United States to suppress the procedure, the work is still going on. We have accounts of persons constantly leaving the United States for the British provinces, under engagements, contracted here, to enter into the British military service. Such engagements are as much an infringement of our laws as more formal enlistments.

I am directed by the President to instruct you to call the attention of Her Majesty's Government to this subject. He desires you to ascertain how far persons in official station under the British Government acted in the first instance in this matter with its approbation, and what measures, if any, it has since taken to restrain their unjustifiable conduct.

In the early stage of the present war the British Government turned its attention towards our Neutrality Laws, and particularly to the provisions which forbid the fitting out and manning privateers for foreign service. Any remissness on our part in enforcing such provisions would have been regarded by that Government as a violation of our neutral relations. No one need be at a loss to conjecture how our conduct would have been viewed by the allies, or what would have been their course towards this country, if it had not denounced and resisted any attempt on the part of their enemy to send its agents into our seaports to fit out privateers and engage sailors to man them. But would this Government be less censurably neglectful of the duties of neutrality by permitting one of the belligerent Powers to recruit its armies within our borders, than by permitting another to resort to our seaports for the purpose of organizing a privateer force to take a part in the present war?

Notwithstanding the ceaseless efforts which this Government has made for several years past to restrain our citizens, and foreigners among us, from getting up enterprises to invade or disturb the neighbouring possessions of a European Power, the British press has loudly proclaimed, and the British public have been induced to believe, that we have acted in bad faith, and complaisantly looked on, if we have not countenanced, the organization of such expeditions. While England has been severe and acrimonious in abusing the Government and people of the United States on the false assumption that we have been neglectful, in this respect, of our duties as a neutral and friendly State, her officers are found among us busily engaged in carrying out a scheme in direct violation of our neutral duties, and of our laws providing for the rigid enforcement of these duties.

Under a consciousness of not deserving the reproach so gratuitously cast upon us by the British press and public, it would hardly comport with a proper sense of self-respect to refer in the way of complaint to these unfounded imputations; but it may not be out of place to notice them when called on to animadvert upon the conduct of these accusers for entering into our territories and openly violating our laws and neutral rights at the same time they are

severely arraigning this Government for not restraining and punishing others who have, as they allege, committed the same offence.

The excuse offered by the British authorities for enlisting or engaging soldiers to enlist within the United States is, that Her Majesty's subjects, and Germans resident therein, had expressed a desire to enter the British army. This fact, if it were unquestionable, would not justify the British authorities in converting the United States into a field for recruiting the British army.

Were not the proceedings in open violation of law, a respect for our obligations of neutrality, and the observance of the comity due to us as a friendly Power, would render such a course by either belligerent disrespectful to us.

The value of such an excuse as is interposed by Great Britain in this case may be tested by its application to another in which there should be a change of parties. Would the fact that Her Majesty's subjects, as well as Germans and Spaniards, and the subjects of most other nations resident in the United States, had a strong desire to aid the discontented Cubans in their efforts to throw off the domination of Spain, be accepted by Great Britain or the other nations of Europe as an excuse for the conduct of this Government if it had actually connived at, or for a moment intermitted its efforts to suppress, expeditions attempted to be organized for aiding an insurrection in the Island of Cuba?

Such an excuse, though sanctioned by the authority of the British Government, would not be at all satisfactory to other Powers, and would be disdained by the United States. This Government expects that the conduct of the officers of Great Britain who have been engaged in the scheme to which I have alluded, will be disavowed by Her Majesty's Government, and these offenders against our neutral rights and laws will be visited with its marked displeasure.

Though the proceedings of this Government to frustrate this scheme may have caused the manner of carrying it on to be changed, there is reason to believe that it is still clandestinely prosecuted by British officers with means furnished by their Government.

The President will be much pleased to learn that Her Majesty's Government has not authorized the proceedings herein complained of; and has condemned the conduct of her officials engaged therein, called them to account, and taken most decisive measures to put a stop to the illegal and disrespectful procedure.

I am, &c.
(Signed) W. L. MARCY.

Mr. Buchanan to Mr. Marcy.

(No. 80.)
(Extract.)

*Legation of the United States,
London, July 13, 1855.*

I herewith transmit the copy of a note addressed by me to Lord Clarendon, dated on the 6th instant, and prepared in conformity with your instructions (No. 91) on the subject of the enlistment and employment of soldiers for the British army within the limits of the United States, which I trust may receive your approbation. It was sent to the Foreign Office on the 7th, but its receipt has not yet been acknowledged.

Mr. Buchanan to the Earl of Clarendon, July 6, 1855.

[See No. 24.]

Mr. Marcy to Mr. Buchanan, July 15, 1855.

[See No. 46.]

Mr. Buchanan to Mr. Marcy.(No. 81.)
(Extract.)*Legation of the United States,
London, July 20, 1855.*

I transmit the copy of a note received from Lord Clarendon, dated on the 16th instant, in answer to mine of the 6th instant, on the subject of the enlistment and employment of soldiers for the British army within the limits of the United States.

In acknowledging the receipt of this note, I have informed his Lordship that I shall have much satisfaction in transmitting a copy of it to the Secretary of State by the next steamer.

The Earl of Clarendon to Mr. Buchanan, July 16, 1855.

[See No. 25.]

Mr. Buchanan to Mr. Marcy.(No. 83.)
(Extract.)*Legation of the United States,
London, August 3, 1855.*

You will observe, by the London "Times" of this morning, that Lord Palmerston last night in the House of Commons, in answer to an inquiry of Mr. Thomas Milner Gibson, stated as follows:—

"With regard to the question which arose in the United States [respecting the enlistment or engagement of soldiers for the Foreign Legion.] I beg to inform the right honourable gentleman that a similar arrangement [to that at Heligoland] was made at Halifax, by which any persons going there, from whatever quarter, might be enrolled; but it appearing that that had led to questions within the territory of the United States as to whether or not the law of that country had been violated, Her Majesty's Government, being desirous that no such questions should by possibility arise, has put an end to the enlistment of forces which used to take place at Halifax."

Mr. Marcy to Mr. Crampton, September 5, 1855.

[See Inclosure 1 in No. 35.]

Mr. Crampton to Mr. Marcy, September 7, 1855.

[See Inclosure 2 in No. 35.]

Mr. Marcy to Mr. Buchanan.(No. 107.)
Sir,*Department of State, Washington, September 8, 1855.*

In my private letter of the 2nd instant, I informed you that I had prepared an official note, relative to the British enlistments within the United States, to which British officers were auxiliary. As Mr. Crampton was personally implicated, it was determined to send it to him, although other communications on the subject had been addressed to you.

The note was sent to Mr. Crampton on the 5th instant, and yesterday I received one from him, in which he informs me that he shall send my note to his Government for directions as to the reply.

I herewith transmit to you copies of the notes above alluded to, together with copies of a part of the proofs in possession of this Government on the subject, implicating Her Britannic Majesty's officers. I do not believe Strobel's statement can be successfully impeached. I am quite sure that it cannot be in

its essential parts. Lord Clarendon must have been misinformed as to the actual state of things here, when he assured you that the persons who had violated our Neutrality Law were self-constituted and unauthorised agents. If the British Government choose to take pains to ascertain what disposition has been made of the large sums of money expended in carrying out the scheme of enlistments in this country, it will find that a considerable amount of it has gone into the hands of these agents, and that it was paid to them for the purpose of being expended in the United States, in raising recruits for the British military service.

I am, &c.
(Signed) W. L. MARCY.

Mr. Buchanan to Mr. Marcy.

(No. 93.)
(Extract.)

*Legation of the United States,
London, September 28, 1855.*

I HAVE the honour to acknowledge the receipt of your despatch No. 107 of the 8th instant, with the accompanying documents.

I transmit to you the copy of a note of yesterday's date, received this morning from Lord Clarendon, in reference to your note to Mr. Crampton of the 5th instant on the subject of British recruitments in the United States, together with a copy of my note of this date acknowledging its receipt. I have been thus prompt in notifying his Lordship that I had no instructions which would warrant me in interfering with the correspondence commenced between Mr. Crampton and yourself at Washington, so that there might be no reason for any delay on the part of the British Government in sending their instructions to that gentleman. I doubt very much, however, whether the confident trust expressed by him in his note to you of the 7th instant will be realized, that after having been more fully put into possession of the views of his Government he "shall be enabled altogether to remove the unfavourable impression which has been created as to the motives and conduct of Her Majesty's Government and their officers, including myself, [himself,] in regard to this matter." Lord Clarendon's note to me of yesterday renders it improbable that Mr. Crampton will receive any such instructions; and I doubt whether the expression of his confident trust to this effect has received the approbation of his Lordship.

I also transmit a copy of my note of the 15th July last to Lord Clarendon, to which he refers in his note to me of yesterday. I communicated to you the substance of this note in my No. 81 of the 20th July, though at that time I did not deem it necessary to send a full copy.

I have not time at present, before the closing of the bag, to make some observations which I had intended to do on the subject. I may resume it next week.

The Earl of Clarendon to Mr. Buchanan, September 27, 1855.

[See No. 36.]

Mr. Buchanan to the Earl of Clarendon, September 28, 1855.

[See No. 39.]

Mr. Buchanan to the Earl of Clarendon, July 18, 1855.

[See No. 27.]

Mr. Marcy to Mr. Buchanan.

(No. 113.)

Sir,

Department of State, Washington, October 1, 1855.

I herewith send you papers containing the report of the trial of Hertz, for a violation of our Neutrality Laws by enlisting soldiers for the British army.

The testimony shows that Mr. Crampton and several other British officials are deeply implicated in the transaction. Lord Clarendon's note, in answer to yours bringing the subject to his notice, assumed that none of Her Majesty's officers had been in any way engaged in the plan of recruiting within the United States. Had the facts been as he assumed them to be, and this Government had had no reason to believe that the measure was not designed to draw recruits from the United States, his Lordship's reply would have been satisfactory.

Subsequent developments show that Lord Clarendon was misinformed as to the true state of the case.

The second despatch to you on the subject showed that the ground of grievance was not confined to the mere fact of a violation of our Neutrality Laws by British officers. It presented the case as a national offence committed by them, irrespective of those laws. These officers may have contrived to shield themselves from the penalties of our laws, and yet have committed an offence against our sovereign territorial rights. This latter aspect of the case was distinctly presented in my last despatch to you on the subject. It was this view of the case which the President wished you to present to Her Majesty's Minister of Foreign Relations.

It is important, with reference to proceedings against British officers residing within the United States, that the President should know whether the Government of Great Britain mean to justify or condemn their conduct.

The disclosures which have been made leave no doubt of the fact that some of these officers have taken an active part in raising recruits in the United States. If their conduct was unauthorized and is condemned, it is proper that this Government should be apprized of the fact, as well as of the punishment which has been, or is proposed to be, inflicted upon them; but if, on the other hand, the British Government approve of the course pursued by its officers, it is important that its determination in that respect should be known.

I am, &c.

(Signed) W. L. MARCY.

Mr. Buchanan to Mr. Marcy.

(No. 94.)

Legation of the United States,

(Extract.)

London, October 3, 1855.

In my last despatch, No. 93, of the 28th ultimo, I stated that I had not then time, before the closing of the bag, to make the observations I had intended on the subject to which it refers, but intimated that I might do so this week.

The alleged agency of Mr. Crampton in the recruitment of British soldiers within the limits of the United States presents a serious aspect. From the information contained in your despatch No. 91 of the 9th June, we had reason to expect a different course of conduct on his part. I need scarcely say that had I been informed that Her Britannic Majesty's Representative at Washington had placed himself in the position attributed to him by Captain Strobel, I should not have expressed to Lord Clarendon my satisfaction in transmitting to you his note of the 16th July.

It is remarkable that Lord Clarendon, in his note to myself of the 27th ultimo, whilst commenting on your note of the 5th September to Mr. Crampton, should have been totally silent in regard to that gentleman after what you had said respecting his conduct.

I cannot but regard as offensive the remark of his Lordship on "the extraordinary measures which," he alleges, "have been adopted in various parts of the Union to obtain evidence against Her Majesty's servants, or their agents, by practices sometimes resorted to under despotic institutions, but which are disdained by all free and enlightened Governments;" though he would doubtless say these were not intended to apply in an offensive sense to the American

Government. He probably alludes to occurrences at Cincinnati and other places.

If arms and ammunition, and warlike stores of various kinds, have been sent in large quantities from the United States for the service of Russia, as his Lordship alleges, this is nothing more than our citizens had a right to do, subject to the risk under the law of contraband. Similar articles have been sent from the United States to Great Britain in large quantities. Besides, at the present moment, and ever since the commencement of the present war, many of our vessels have been engaged as transports, by Great Britain and France, to carry troops and munitions of war to the Crimea. When this business first commenced, I was applied to by masters and agents of American vessels for information as to what penalties they would incur by engaging in it, and I stated to them that their vessels would be lawful prize if captured by the Russians. For this reason I advised them to obtain an indemnity from the Government employing them against this risk.

The "plots" to which his Lordship refers, relate chiefly, I presume (for I do not know), to the proceedings and address of the "Massachusetts Irish Emigrant Aid Society" at Boston, on the 14th August. These were republished in the London "Times" on the 11th September; and you will find an editorial on this subject on the following day.

Mr. Buchanan to Mr. Marcy.

Legation of the United States,

(Extract.)

London, October 30, 1855.

But I have not since taken any action upon your No. 102, for the plainest reason. I had, previously to its arrival, transmitted to you a copy of Lord Clarendon's note already referred to, of the 16th July, on the subject of the enlistment and employment of soldiers for the British army within our limits, and had informed his Lordship, in acknowledging the receipt of this note, that I should have much satisfaction in transmitting a copy of it to the Secretary of State. Of course it would have been improper for me to take any new step in this matter until I should learn whether this note would prove satisfactory to yourself. Again, your No. 102 states that, after many months had elapsed, British officers were still proceeding to violate our laws, and persist "in carrying on the obnoxious scheme without any open disapproval by the Home Government, or any attempt to arrest it;" and one of the two express instructions which the President gives me in conclusion is, "to say to Her Majesty's Government that he expects it will take prompt and effective measures to arrest their proceedings." Now, these measures had been already adopted, but could not possibly have been known to you. Lord Clarendon's note had entirely changed the aspect of the case from the view which you took of it, and must necessarily have taken of it, at the date of your No. 102. The general tenour of this note—its disavowals and its regrets—were certainly conciliatory, and the concluding paragraph, declaring that all proceedings for enlistments in *North America* had been put an end to by Her Majesty's Government, for the avowed reason that the advantages which Her Majesty's service might derive from such enlistments would not be sought for by Her Majesty's Government if it were supposed to be obtained in disregard of the respect due to the law of the United States, was highly satisfactory. It was for these reasons that I expressed the satisfaction I would have in communicating it to you. Then came the declaration of Lord Palmerston to the same effect in the House of Commons, on the 2nd August, in which he explicitly declared that, in order to avoid questions with the United States, the Government "had put an end to the enlistment of forces which used to take place at Halifax." This declaration was, to my knowledge, received with much satisfaction by Mr. Milner Gibson, who had made the inquiry of Lord Palmerston, as well as by many other liberal members of Parliament. Very different, indeed, had been the conduct of the British Government in this respect towards certain continental States.

I can assure you that I did not entertain the most remote idea that this question had not been satisfactorily adjusted until I learned the complicity of Mr. Crampton in the affair. This was officially communicated to me in your

despatch No. 107 of the 8th, received on the 24th of September, with a copy of your letter to Mr. Crampton on the 5th, and his answer of the 7th of the same month. From these it appears you had thought it due to Mr. Crampton, no doubt properly, to take the affair in hand yourself, and this you have done in an able manner in your letter to that gentleman. Thus much I have deemed necessary to place myself *rectus in curia*.

Mr. Marcy to Mr. Buchanan, October 13, 1855.

[See No. 45.]

Mr. Buchanan to Mr. Marcy.

(No. 99.)

(Extract)

Legation of the United States,

London, November 2, 1855.

According to the appointment mentioned in my last despatch, I met Lord Clarendon yesterday afternoon at the Foreign Office. After some unimportant conversation, I told him that on my return to the Legation on Monday last, I found a despatch from yourself on the Recruitment Question, which I had been instructed to read to him, and furnish him a copy, if requested. He said he had also despatches from Washington on the subject. I then stated that Mr. Crampton having promised, in his note of the 7th of September, to address you again after hearing from his Lordship, I should be glad to know whether he had furnished instructions to Mr. Crampton for this purpose. He told me he had not; that he had pursued the usual diplomatic course in such cases, in addressing me a note in answer to the note addressed by you to Mr. Crampton. I said, "Very well; then your note to me of the 27th of September is the answer to Mr. Marcy's note to Mr. Crampton of the 5th of that month, and the despatch which I was about to read to him was your answer to his note to me of the 27th of September." To this he assented.

I then read to him your despatch to me of the 13th of October, to which he listened throughout with great apparent attention. After the reading he requested a copy, and I delivered him the duplicate which you had forwarded. He then asked what was the nature of the satisfaction from the British Government to which you had referred in your despatch just read. I said that the best mode of giving him the information was to read to him this despatch of yours to me, which I accordingly did, * * * of which he also desired a copy, and I promised to furnish it. I had prepared myself to state, in conversation, the substance of what this despatch required from the British Government; but having the despatch with me, I thought it better at the moment, in order to prevent all misapprehension, to read it to him, as it had evidently been prepared with much care. I have sent him a copy of it to-day.

I then stated, his Lordship would observe that the Government of the United States had two causes of complaint: the one was such violations of our Neutrality Laws as might be tried and punished in the Courts of the United States; the other—to which I especially desired to direct his attention—consisted in a violation of our neutrality, under the general Law of Nations, by the attempts which had been made by British officers and agents, not punishable under our Municipal Law, to draw military forces from our territory to recruit their armies in the Crimea. As examples of this, I passed in review the conduct of Mr. Crampton, of the Lieutenant-Governor of Nova Scotia, and the British Consuls at New York and Philadelphia.

I observed that, in his note of the 16th July, he had assured me that the individuals engaged in recruiting in the United States acted upon their individual responsibility, and had no authority for their proceedings from any British officials, by whom their conduct was condemned. In addition, he had stated that instructions had been sent out to Sir Gaspard le Marchant to stop all enlistments in North America. (Yes, his Lordship observed, they were sent out on the 22nd of June last.) I said I had expressed the satisfaction which I felt in transmitting this note to Mr. Marcy, and was therefore sorry to say satisfactory proof existed that Mr. Crampton and other British officers had

before and since been engaged in aiding and countenancing these proceedings and recruitments. In fact, Wagner had been convicted at New York for a violation of our Neutrality Law, committed at so late a period as the 3rd of August.

Lord Clarendon sat silent and attentive whilst I was making these remarks, and then took from his drawer several sheets of paper, containing extracts from a despatch of Mr. Crampton (received, as I understood, by the last steamer), some of which he read to me.

Mr. Crampton emphatically denies the truth of Strobel's testimony and Hertz's confession, as well as all complicity in the recruitments. I expressed my surprise at this, and said that Strobel's character was respectable, so far as I had ever learned, and that his testimony was confirmed by several documents implicating Mr. Crampton, which had been given in evidence on the trial of Hertz. I told him him he would see this on a perusal of the trial itself, of which I gave him a copy.

I asked him whether he intended I should communicate to you my recollection of the particular extracts he had read to me from Mr. Crampton's despatch. He said he would prefer I should not; that he would examine and sift the subject with great care, and preferred to present these to you in his own language.

In concluding this part of the conversation, Lord Clarendon declared, in a sincere and emphatic manner, that nothing had been further from the intention of the British Government than to violate the neutrality of the United States, or to give them cause of offence. He could also declare, in regard to himself personally, that he would not act in such a manner towards one of the weakest Powers—not even towards Monaco—and certainly would not do so towards the great and powerful Republic of the United States, for which he had ever entertained the warmest feelings of respect and friendship.

I presume you may expect, ere long, to hear from Lord Clarendon through a note addressed to Mr. Crampton, according to what he says is diplomatic usage.

We afterwards had some conversation about the invasion of Ireland, which I have never treated seriously. In regard to the Russian privateer alleged to be fitting out at the port of New York, I told him that since our last conversation I had seen two gentlemen who had just arrived from New York who assured me they would be likely to know or have heard of it were any such steamer building, and they treated the report to that effect on this side of the Atlantic as idle and unfounded. In reply, he informed me that the fact was substantiated, and the steamer described in a particular manner, which he detailed by three depositions which had been forwarded by the British Consul at New York to Mr. Crampton, who had brought the subject to your notice, and you had promised to inquire into it.

Mr. Buchanan to Mr. Marcy.

(No. 101.)
(Extract.)

*Legation of the United States,
London, November 9, 1855.*

I had an interview with Lord Clarendon yesterday, by appointment, and shall now report to you, as nearly as I can recollect it, our conversation. After the usual salutations, I said to him: "Your Lordship, when we last parted, asked me to help you to keep the peace between the two countries, which I cordially promised to do; and I have come here to-day to make a suggestion to you with this intent.

"You have now learned the prompt and energetic action of the Government of the United States in causing the seizure and examination of the vessel at New York which you had learned was intended for a Russian privateer. Upon this examination she has turned out to be the barque 'Maury,' built for the China trade, and bound to Shanghae. The ten iron cannon in the hold and four on deck, together with the other arms on board, were designed to furnish arms to the merchantmen in the Chinese Seas, to enable them to defend themselves against the pirates, so numerous in that quarter. The time of her sailing

had been announced for three weeks in five daily journals, and she was to take out four Christian missionaries. So satisfactory did the examination prove to be, that Mr. Barclay, the British Consul, had himself assented to her discharge.

"Your Lordship stated to me at our last meeting that the reason why the British fleet had been sent to the vicinity of the United States was the information you had received that a Russian privateer had been built in New York, and was about to leave that port to prey upon your commerce with Australia. You have now received the clearest evidence, not only that this was all a mistake, as I predicted at the time it would prove to be, but also that the Government of the United States has acted with energy and good faith in promptly causing the vessel to be seized and examined. Now, my Lord, the cause having proved to be without foundation, the effect ought to cease, and I earnestly suggest to you the propriety of issuing an order to withdraw the fleet.

"*'The Times'*" accompanied the enunciation that this fleet had been sent, with the most insulting and offensive exposition of the reasons for this act, and several journals friendly to the present Government followed in the same spirit. When we take into view the existing difference between the two Governments about enlistments, and the still more dangerous questions behind, concerning Central America—all of which are well known to the people of the United States—what will be the inference naturally drawn by them when the news shall first burst upon them? Will it not be that this fleet has reference to these questions, and is intended as a menace? I need not say what will be the effect on my countrymen. They well know that no reason ever existed in point of fact for apprehension on account of Russian privateers, and still less, if that be possible, for an expedition to Ireland; and they will not attribute the sending of the fleet to these causes. The President, in his message to Congress, early in December, will doubtless present to that body the present unsatisfactory condition of the Central American questions; and it will require the cool and clear heads of the public men of both countries to prevent serious consequences from these questions. Now, it so happens that the news of the sending of the British fleet will arrive in the United States but a short time before the date of the message, and will almost necessarily be connected in public opinion with these dangerous questions, thus rendering them more complicated. If you will at the present moment, and before we can hear from the United States, voluntarily withdraw your fleet upon the principle that the danger from Russian privateers, of which you had been informed, did not in point of fact exist, and at the same time do justice to the Government of the United States for having so faithfully preserved its neutrality, this would be to pour oil upon the troubled waters, and could not fail to produce the best results. You might address a note either to Mr. Crampton or myself, stating that the fleet had been withdrawn; and I am persuaded that this act of justice, would have a most happy effect."

His Lordship, in reply, said, in substance (for I will not undertake to repeat his very words), that he thanked me for my suggestion, and would take it into serious consideration; but, of course, he could do nothing without consulting the Cabinet. Of this, however, he could assure me most positively, as he had done at our former interview, that nothing could be further from their intention than any, even the most remote, idea of a menace in sending out the fleet. Immediately after our conversation on Thursday last, he had sent to the Admiralty and requested that orders might be issued that the vessels sent out should not go near the coasts of the United States. Sir Charles Wood and Admiral Berkeley had both informed him that it was never their intention that they should approach our coasts, and he could assure me that none of these vessels would ever go "poking" about our ports. Besides, he said, Sir Charles Wood had informed him that but three vessels had been sent out—one to Bermuda, and the other two to Jamaica. (I observed this was a mistake, but I would not interrupt him.) He replied, this was the information he had received from Sir Charles.

The Earl of Clarendon to Mr. Crampton, November 16, 1855.

[See No. 53.]

Mr. Marcy to Mr. Buchanan, December 28, 1855.

[See No. 58.]

Mr. Buchanan to Mr. Marcy.

Legation of the United States,

London, February 1, 1856.

(Extract.)

I had an interview, by appointment, on Tuesday last, with Lord Clarendon at the Foreign Office. After some preliminary conversation on the subject of the approaching peace with Russia, I informed him I had come on purpose to read to him your despatch to me of the 28th ultimo (December), in reply to his despatch to Mr. Crampton of the 16th November last. Before proceeding to this, however, I expressed my desire to correct an error, or rather an omission, in his report of a remark made by myself, contained in his despatch to Mr. Crampton. He said he "would be very sorry if any such error had been committed by him; that nothing certainly was further from his intention." I replied that I had not the most remote idea he had done this intentionally, and I had no doubt it was a mere inadvertence; but still, it was proper for me to correct it. I then read to his Lordship the following paragraph from his despatch to Mr. Crampton of the 16th November:—

"Before I proceed to offer any remarks upon this despatch (your No. 118, of the 13th October), it will be proper to state that when it was read to me by Mr. Buchanan, I had no cognizance of Mr. Marcy's despatch of the 15th July, to which it alludes, and of which a copy was also transmitted to you; and upon my observing this to Mr. Buchanan, he said he had not thought it necessary to communicate it to me, as, before it had reached him, he had received my note of the 16th July, which he thought would finally settle the question that had arisen between the two Governments."

I then observed that his Lordship's omission consisted in not having added the qualifications which I made at the time to this remark, that when I received your despatch of the 15th July I had not the least idea of Mr. Crampton's complicity in the business of recruiting. (In truth, I never had until I received your private letter of the 2nd September.) His Lordship said he "did not recollect that I had made this remark at the time; though this was quite probable, as he did recollect I had previously informed him, more than once, when speaking in reference to the satisfaction I had expressed in transmitting to you his note to me of the 16th July, that I had no idea at the time of Mr. Crampton's complicity in the affair." I stated it was quite certain I had made this remark to him at the time. I had always been on my guard in conversing with him on the subject, from the time I first heard from you of Mr. Crampton's alleged complicity. He said he had no doubt I was correct in my recollection; and I told him that in this I could not be mistaken, not only because my memory was distinct, but because I had made notes of our conversation soon after it occurred. He said, for his own part, he never had time to make such notes, and repeated he had no doubt my statement was correct, and expressed his regret that he had not embraced my remark in his despatch to Mr. Crampton, but observed that he did not see its importance. I told him it might, possibly, be of some consequence to myself, and I had ever considered Mr. Crampton's complicity in the affair a matter of very grave importance. I then mentioned that in other respects his statement was not altogether correct, and I repeated to him the language which I had employed on the occasion, as follows:

"I did not deem it necessary to communicate this despatch (that of the 15th July) to your Lordship until I should hear from Mr. Marcy on the subject of your note of the 16th July, which I thought at the time would finally settle the question, because I had not then the least idea of Mr. Crampton's complicity in the business of recruiting."

No. 82.

Mr. Crampton to the Earl of Clarendon.—(Received April 1.)

My Lord,

Washington, March 14, 1856.

I HAVE the honour to inclose an extract from the "National Intelligencer" newspaper, containing an able article upon the Recruitment Question.

This article, which I had not seen when I wrote my previous despatch of this day's date, will be found entirely to confirm the correctness of the view taken by Lord Palmerston of Mr. Buchanan's expression of satisfaction with the explanations contained in your Lordship's note to that Minister of the 16th of July last.

It will also be found to establish, in a manner which can scarcely be controverted, the fact that Mr. Buchanan did not bring the subject of the recruitment under the attention of Her Majesty's Government in any other aspect than as a violation of the Municipal Law of the United States, and that consequently what is termed the "international aspect" of the question was not presented to Her Majesty's Government until they received a copy of the note addressed to myself on the 5th of September by Mr. Marcy.

I have already had the honour of stating to your Lordship that the question was not presented to me in that aspect before I received that note, though frequent opportunities had occurred for making to me such a communication had the United States' Government been disposed to do so.

I will take this opportunity of pointing out more particularly what those opportunities were, since the publication of the correspondence by the United States' Government enables me to do so with greater precision.

Mr. Marcy in his despatch to Mr. Buchanan of the 28th of December lays some stress on the fact of my having been for a certain period absent from Washington in the British provinces, as accounting for his having given me no warning of his real views of the Recruitment Question.

Now, as Mr. Marcy has himself observed, dates are of importance in these matters.

Your Lordship will observe that the date of Mr. Marcy's first despatch to Mr. Buchanan on the subject of the recruitment was June 9, 1855, and as the date of my return to Washington was the 6th of the same month, there could have been no difficulty in making me aware of the fact that such a despatch had been written, or of informing me of the grounds of complaint therein taken.

Mr. Marcy addressed Mr. Buchanan again on the 15th of July, renewing in a more decided tone his complaint on the subject.

I was certainly not then absent from Washington, but I was left entirely in the dark as to those complaints having been addressed to my Government upon a subject in which I was interested, and in respect to a proceeding which it might have been supposed I could have to some extent contributed to control, if not at once to cause to be discontinued, had the United States' Government applied to me directly on the subject. It was only upon the receipt of your Lordship's despatch of July 19, inclosing copies of your correspondence with Mr. Buchanan (notes of the 16th and 18th of July respectively) that I became aware that any complaint had been made.

On the receipt of that despatch I conceived, as your Lordship did and Lord Palmerston has done, that the affair had been brought to a termination satisfactory to Mr. Buchanan, and consequently to his Government, and acting on that supposition I applied unofficially to Mr. Marcy, by a letter dated August 10, to have the prosecutions against Mr. Consul Rowcroft, &c., abandoned. I received no reply to this letter for several days, and when at an interview with Mr. Marcy on the 26th of August I applied verbally for one, he did not even then see fit to inform me of what was going forward, or apply to me to arrest the recruitment proceedings which it now appears he believed to be actually going on with success, but contented himself with remarking to me that the affair was under consideration.

It was only by Mr. Marcy's note of the 5th of September, that I was at once informed both of the view taken of the matter by the United States'

Government, and of their belief that I myself was implicated in the affair of which they complained.

From June 6, therefore, to September 5, during the whole of which time, with the exception of six days (from June 20 to June 26), I was at Washington, and during the whole of which time Mr. Marcy, as it has since appeared, believed that recruitments were successfully going on, which recruitments it was natural to suppose I might have had some influence in stopping or preventing, no remonstrance or communication of any sort was made to me on the subject, and during the greater part of that time, while evidence was being industriously collected by the United States' District Attorneys, through the means of paid spies and informers, against myself and other officers of Her Majesty's service, it was not thought expedient by the United States' Government to give either myself or them any notice of what was going forward, or to break silence on the subject to us at all, until a case against us had been matured and completed by which it was hoped and expressly and avowedly intended to convict us publicly of the offence of a violation of the law.

It is not for me to speculate as to the motives by which the United States' Government were actuated in this course of proceeding, but it certainly would seem that it was dictated rather by a desire to ensure the public conviction of certain parties of an offence, by silently watching their proceedings until they had involved themselves in some illegal act, than by a desire to put a stop as early as possible, by timely warning, to any further steps in the execution of a plan which was in their opinion likely to disturb the friendly relations of the two countries.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 82.

Extract from the "National Intelligencer" of March 14, 1856.

OTHER engagements have prevented us from earlier directing our attention to certain articles which have recently appeared in the Government paper, undertaking to reflect upon the conduct of the "National Intelligencer," with reference to the questions now pending between the United States and Great Britain. So long as these articles appeared to be nothing more than the effusions by which the "Union," as a party newspaper, feels itself called upon to convey a certain amount of declamation against this journal we did not think them worthy of notice; for, as our neighbours seem to take so much pleasure in railing at the "Intelligencer," we have no disposition to interrupt them in an employment which affords them satisfaction and does us no harm. We had reason, some time ago, to congratulate them on a "returning courtesy," of which they then manifested some hopeful symptoms; and we can only regret, for their own sake, that they seem to have expended themselves in a single effort in that line, as we have not since found any occasion to acknowledge a repetition of an amenity which we then took so much pleasure in signaling, and which we are sorry has proved so short-lived.

In their issue of Tuesday last the "Union" favours its readers with some comments under the head of "The National Intelligencer on British recruiting in the United States," which it will perhaps be sufficient to characterize with due severity, by saying that they are couched in the usual style of the "Union's" animadversion on this journal, when, in the exercise of our independent judgment, we are not always so happy as precisely to accord with its own official inspirations. It is only, however, in their character as official inspirations (for such its remarks are presumed to be) that we think ourselves justified in continuing a controversy which is neither profitable to our readers nor interesting to ourselves.

The remarks in which we seem to have given offence to the Government organ, are found in a short article which we indited about a week ago, introducing to our readers, with some complimentary observations on its ability, the final despatch of Mr. Secretary Marcy on the Enlistment Question. The "Union" represents us as having manifested in that article a "purpose to justify the illegal and unfriendly conduct of the British Government" in that

matter—a charge which it founds, we suppose, upon our attestation to “the praise due to the zeal manifested by the Administration in the preservation of our strict neutrality on the present as well as on former occasions.” The official journal, it would seem, is so jealous of its own occupation that it feels itself authorized to construe our praise of the Executive for his rigid enforcement against England of our Neutrality Laws into a purpose on our part to “justify the illegal and unfriendly conduct of the British Government.” We do not complain of this as a misrepresentation on the part of our neighbours, but prefer rather to impute it to that freedom of comment and “looseness of expression” into which rapid and profuse writers are always liable to fall.

We are further charged with having “garbled words and phrases from Mr. Marcy’s last despatch, and pretended to make him say that his object was to ascertain the debateable ground, as if that had not already been done.” This is a charge which the editors of the “Intelligencer” do not feel called upon to refute; and, as we published in the same paper with the alleged “garbled words and phrases” the despatch itself from which they were avowedly taken, our readers will not be likely to suppose that we were weak enough to perpetrate such a blunder, when the means of its detection were so patent, even if that fairness which we endeavour to practise towards political opponents had not been sufficiently influential to preserve us from such an insincerity.

As, however, the “Union” denies that it was the object of Mr. Marcy’s last despatch to “ascertain the debateable ground,” and asserts that *that* “had already been done,” it may be useful to refer to the precise words of that despatch which we are accused of “garbling,” and then “pretending” to make its author say what was really not his object. The point is unimportant in itself, but illustrates the usual accuracy of the official censor. From the opening paragraph of that despatch we quote as follows :

“The variant views of the British Government in relation to recruiting for its armies within the United States *render the precise positions it intends to maintain somewhat uncertain.* * * * Before adverting to the conduct of the officers and agents of Her Majesty’s Government in recruiting within the territories of the United States, it will be necessary not only to define our own rights, *but to ascertain the precise limits of British pretensions.* *After the debateable ground shall be clearly ascertained,* the range of the discussion will, it is hoped, be reduced to narrower limits, and the probability of an amicable adjustment of the present difficulties increased.”

Our readers can judge from these passages whether the “Intelligencer” “garbled words and phrases” from Mr. Marcy’s despatch of the 28th of December, when we “pretended to make him say that his object was *to ascertain the debateable ground,*” and from this specimen can judge of the “Union’s” acquaintance with that document.

We have never found any occasion for “garbling” the State papers of our Government to make them sustain our positions; though, in arranging them for our readers’ perusal, we have frequently found it necessary to alter their collocation as given in the official publication, in which but little regard has been shown for that order in their insertion which would facilitate a reader apprehension of their purport and bearing on the correspondence to which they belong. For instance, in the official publication of the documents on the Recruitment Question, the despatch in which that particular subject is first broached and brought to the notice of our Government by Great Britain, in the month of May 1855, is crowded out of its logical position in the Correspondence, and is relegated to the very close of the printed volume containing it—appearing, as it does, immediately before Mr. Marcy’s *last* despatch, instead of being assigned its proper place immediately before his *first* despatch on the subject. That letter of Lord Clarendon’s, dated April 5, 1855, and “delivered to Mr. Marcy in the course of the month of May 1855,” contains the evidence that the British Government at that date had officially advised the United States of its “proceedings with respect to the proposed enlistment in the Queen’s service of foreigners and British subjects in the United States,” accompanied with the assurance that “Her Majesty’s Government would on no account run any risk of infringing the Neutrality Law of the United States.” The first letter of Mr. Marcy on the subject is dated June 9, 1855, and though it commences with the observation that “some time since it became known that a plan was on foot to enlist soldiers within the limits of the United States to serve in the British

army," yet the reader is not informed that our Government had been officially advised of the fact by the Government of Great Britain until he reaches the close of the correspondence. This confusion of papers, we know, cannot conceal the truth from attentive readers, nor do we for a moment suppose it was intentional on the part of the Secretary of State, or that he had any personal agency in it; but it does not indicate any great carefulness in so arranging the papers of a correspondence as to facilitate the reader's apprehension of the facts on which it treats, and the due relation they sustain to each other in the order of time and place. But we return to the topic more particularly in hand.

In commenting on Mr. Marcy's two-fold division of our grievances against Great Britain in the matter of recruitment within our limits, we lately ventured to say that, examined in the light of common sense, "the infringement of our 'sovereign territorial rights' did not so clearly appear to us as a separate and distinct offence from the violation of our Neutrality Laws," and that, "admitting the distinction to be well taken on the part of our Government," it seemed to us that an apology tendered for the latter applied equally to the former, since both offences grew out of the same general procedure. Anxious, however, to view the conduct of our own Government in the most favourable light, and to avoid the appearance of a disposition to find fault where it is always so much more agreeable for us to express gratification and approval, we took pains to add, as an act of caution on our own part, as well as of justice to the Government, that in thus expressing ourselves we were to be regarded as "*intimating rather than positively affirming* our opinions on this subject." As the Government journal, however, seems unwilling to tolerate any *intimation* even of dissent from the arguments and positions of the Executive as developed in the correspondence on this question, it now becomes necessary for us to abandon the reserve which we had imposed on ourselves, and to state more fully the grounds on which we were emboldened to "intimate" the opinions to which we have alluded; and if it shall be found that our presumption in this regard is supported by the purport and tenour of the correspondence itself, it will not, perhaps, be henceforth attributed by our neighbours "to the desperate necessity" of the "cause" we "have espoused," but will rather appear as the necessary inference derived from the documents themselves.

Reserving, therefore, as we have before said, the pronouncement of our deliberate opinions on the whole controversy until the correspondence shall be finally closed by both Governments, and their respective positions distinctly taken, we proceed to show that in what we have already said on the alleged distinction between the two offences charged against the British Government, and the alleged insufficiency of an apology for the one to answer for the other, we have been merely following the example and sharing the opinions of Mr. Buchanan. This we shall endeavour to prove by an examination of the documents before us.

In his first despatch on the subject, dated June 9, 1855, Mr. Marcy writes to Mr. Buchanan as follows. We quote the first paragraph of the letter:—

"Some time since it became known that a plan was on foot to enlist soldiers within the limits of the United States to serve in the British army, and that rendezvous for that purpose had been actually opened in some of our principal cities. *Besides being a disregard of our sovereign rights as an independent nation*, the procedure was a clear and manifest infringement of our laws enacted for the express purpose of maintaining our neutral relations with other Powers. It was not reasonable to suspect that this scheme was in any way countenanced by the British Government, or any of its subordinate authorities resident within the United States or in the British North American Provinces; but a further examination into the matter has disclosed the fact that it has had not only the countenance, but the active support of some of these authorities, and to some extent the sanction of the British Government."

Here is the case stated on the part of our Government, and the two counts in the indictment against Great Britain arranged side by side. Lower down in the same despatch, Mr. Marcy says:

"Were not the proceedings *in open violation of law*, a respect for our obligations of neutrality and the *observance of the comity due to us as a friendly Power*, would render such a course by either belligerent disrespectful to us."

Here, again, we are told, is the double aspect of the complaint which Mr. Buchanan is instructed to bring to the notice of the British Government. This he undertook to do in his letter of July 6, 1855, in which the Government

journal asserts he presented to Lord Clarendon the international aspect of the case. This may be so ; but we shall enable our readers to judge for themselves of the force given to it by Mr. Buchanan. We proceed to analyze his letter to Lord Clarendon, written in obedience to Mr. Marcy's instructions, *as he understood them*. The first paragraph contains the following specification :—

“When intimations were thrown out that British Consuls in the United States were encouraging and aiding such enlistments, Mr. Crampton, Her Britannic Majesty's Minister at Washington, exhibited to the Secretary of State the copy of a letter which he had addressed to one of these Consuls, disapproving of the proceeding, *and discountenancing it as a violation of the Neutrality Laws of the United States*. After this very proper conduct on the part of Mr. Crampton, it was confidently believed that these attempts to raise military forces within the territory of a neutral nation, from whatever source they may have originated, would at once have been abandoned. This reasonable expectation has not been realized, and efforts to raise recruits within the United States for the British army are still prosecuted with energy, though chiefly in a somewhat different form.”

Here it will be seen that Mr. Buchanan represented the recruiting plan of a *British Consul* as being “very properly” discountenanced by Mr. Crampton “as a violation of the Neutrality Laws of the United States.” Not a word is said of the “international aspect.” Mr. Buchanan continues his despatch in the following terms :—

“To arrest a course of proceeding which so seriously compromised the neutrality of the nation in the existing war, prosecutions were instituted by order of the American Government against the offenders. This led to developments establishing the fact that *the Lieutenant-Governor of Nova Scotia* has had a direct agency in *attempts to violate the Neutrality Laws of the United States*. This will appear from the copy of a notification issued by that functionary, dated at Halifax, on the 15th of March last, and believed to be genuine, a copy of which the undersigned has now the honour to communicate to the Earl of Clarendon.”

Here Mr. Buchanan protests against the conduct of the Lieutenant-Governor of Nova Scotia,” not as an “international affront,” but as an “attempt to violate the Neutrality Law of the United States.” This fact is worthy of notice, as this conduct on the part of this very functionary figures in the subsequent correspondence as one of the instances in which British Agents, by disregarding the policy of our Neutrality Laws, had affronted our sovereign rights as an independent nation to such a degree that the latter constitutes a separate offence from the former. Mr. Buchanan, having, like ourselves, it would seem, a “plain understanding,” was not astute enough to enforce the distinction, or regarded it as a “distinction without a difference.” Further on in this same despatch Mr. Buchanan remarks as follows :—

“The plain and imperative duties of neutrality, *under the Law of Nations*, require that a neutral nation shall not suffer its territory to become the theatre on which one of the belligerents might raise armies to wage war against the other. If such a permission were granted, the partiality which this would manifest in favour of one belligerent to the prejudice of the other could not fail to produce just complaints on the part of the injured belligerent, and might eventually involve the neutral as a party in the war.

“The Government of the United States, however, *did not leave the enforcement of its neutral obligations to rest alone on the Law of Nations*. At an early period of its history, in June 1794, under the administration of General Washington, an Act of Congress was passed defining and enforcing its neutral duties ; and this Act has been applied, extended, and enlarged by the Act already referred to, and now in force, of the 20th April, 1818. Under both these Acts the very same penalties are imposed upon all persons implicated, whether the actual enlistment takes place within the territory of the United States, or whether an engagement is entered into to go beyond the limits or jurisdiction of the United States ‘with intent to be enlisted or entered in the service of any foreign Prince,’ &c. *Without the latter provision* the former might be easily evaded in the manner proposed by the Lieutenant-Governor of Nova Scotia. If the law permitted any individuals, *whether official or unofficial*, to engage persons in Philadelphia, New York, and Boston to serve in the British army, and to enter into contracts to transport them to Halifax, there to complete the formal act of

enlistment, then it is manifest that this law, to a very great extent, would become a dead letter."

From this statement and reasoning it appears incontestable that Mr. Buchanan, like ourselves, supposed the Neutrality Laws of the United States to fulfil the requirements of the Laws of Nations, in accordance with which latter the former are made; for it will be observed that he so explains our legislative enactments on the subject as to cover the very case of the Nova Scotian Governor whose conduct is now arraigned under the sanctions of international law. Our Neutrality Laws are held by Mr. Buchanan to apply to "any individuals, whether official or unofficial," and he says not a word of a twofold offence in the premises demanding a double apology. Let us look still further in his despatch. Comparing the Foreign Enlistment Act of England with the Neutrality Law of our Congress, Mr. Buchanan says:—

"And here it may be worthy of remark that neither the Foreign Enlistment Act nor the Act of Congress is confined to the enlistment or engagement of British subjects or American citizens, respectively, but rightfully extends to individuals of all nations, 'to any person whatever.' *The reason is manifest. The injury to the neutral principally consists in the violation of its territorial sovereignty by the belligerent for the purpose of raising armies; and this is the same, no matter what may be the national character of the persons who may agree to enter the service.*"

Here it will be seen that Mr. Buchanan cuts away in express terms the superimposed charge of a violation of territorial sovereignty, as distinct from the infraction of our Neutrality Laws; and argues that the Act of Congress under this head is, for a "manifest reason," so constructed as to meet the exigency presented by the question of territorial sovereignty. We might, therefore, save ourselves the trouble of further pursuing the subject under the lead of Mr. Buchanan. But in fact we have now exhausted all Mr. Buchanan's allusions to this point.* Our readers can, therefore, judge for themselves how much value Mr. Buchanan attached to this specification *as distinct from* the violation of our legislative enactment on the subject. Yet the "Union" asserts that this second count *was presented* by him in this note to Lord Clarendon.

This assertion on the part of the Government journal does the greatest injustice to our late Minister at the British Court, and seems calculated to damage his character as a skilful diplomatist; and the injury becomes only the more unpardonable as proceeding from a political confederate towards whom our neighbours are charged by a junior Democratic paper of this city (we mean the "Washington Sentinel") with entertaining sentiments not of the most friendly character, arising from certain dynastic considerations to be settled at the Cincinnati Convention, and in which we have *no* right or wish to interfere. But, we repeat, the assertion of the "Union," that Mr. Buchanan presented both of the charges as now specified, and urged them as distinct and separate affronts, demanding distinct and separate apologies, places him in the awkward and unenviable position of having expressed his satisfaction at a reply of Lord Clarendon's, which, it is confessed, meets only the single case founded on the violation of our Neutrality Laws. If Mr. Buchanan, as the "Union" declares, brought two charges against the British Government, and if, as is undenied by all, Lord Clarendon, in responding to them, simply expressed "*the regret of Her Majesty's Government if the law of the United States had been in any way infringed,*" then it necessarily follows that Mr. Buchanan was greatly derelict in duty when he accepted half an apology as being full and satisfactory. The "Union" may persuade itself that he was capable of such stultification, but we imagine it will find few to share its convictions respecting that shrewd and eminent Statesman. It was but a few days ago that we had occasion to defend General Cass from the imputation of uttering "loose expressions" and "crude opinions," which the official paper thought itself allowed to cast upon that champion of the Democratic faith merely to serve the transient purpose of a controversial argument. And now it undertakes to represent Mr. Buchanan as committing a *faux pas* in diplo-

* It will surely not be contended that the closing paragraph of Mr. Buchanan's despatch, in which he speaks of the conduct of those engaged in the enlistment scheme as "contrary to the Law of Nations, the laws of the United States, and the comity which ought ever to prevail in the intercourse between two friendly Powers," is to be taken *partitively*; for then we should have *three* grounds of complaint, and Mr. Buchanan would have expected *three* separate apologies, whereas, as we shall soon see, he was "satisfied" with a single one, directed to the infraction of our Neutrality Laws.

macy which the merest novice would avoid—that of alleging two grievances against a nation, and expressing full satisfaction at an answer which replied to but one!

But perhaps it will be denied that Mr. Buchanan was at the time fully satisfied with Lord Clarendon's reply of July 16, in which he expressed the regret above quoted. We have elsewhere than in the "Union" seen some intimations to this effect, and it has been even alleged that Mr. Buchanan did nothing more than express to Lord Clarendon that he would have satisfaction "*in communicating a copy of his Lordship's despatch*" to the Government of the United States." Such a statement can, of course, impose upon no one who has read the whole correspondence. It may be proper, however, at this stage of our inquiry, to review the facts of the negotiation, which show in what light Lord Clarendon's reply was viewed by Mr. Buchanan. To do so fully will demand a reference to Mr. Marcy's second letter on the subject. For, on the 15th of July, 1855, Mr. Marcy again wrote to Mr. Buchanan, renewing the complaints of our Government, and still more explicitly reflecting on the *illegal procedures* of British officers, as constituting an "*open contempt of our sovereign rights*," to all which he adds that the "*persistence*" of *British officers* in carrying out "*this device of drawing recruits for the British army from the United States gives grave importance to the subject*, and calls, as the President believes, *for some decisive reparation*." But we will quote the paragraphs in full:

"If an apology, grounded upon an alleged ignorance of our laws, could be offered for introducing this scheme for recruiting the British army by men drawn from the United States, that excuse could not be available after the provisions of these laws were first made known to those engaged in the scheme.

"Since that time many months have elapsed, and the British officers, with a full knowledge of the illegality of the procedure, and of its offensive character to the Government and people of the United States *as an open contempt of their sovereign rights*, persist in carrying on this obnoxious scheme, without any open disapproval by the Home Government, or any attempt to arrest it.

"This persistence of *British officers, residents here or in the provinces, in countenancing and aiding, unrestrained by their Government*, and apparently with its approval, to carry out this device of drawing recruits for the British army from the United States, gives grave importance to the subject, and calls, as the President believes, *for some decisive reparation*."

After speaking of certain measures of redress, Mr. Marcy adds:

"These measures of redress cannot, as the President conceives, be withheld on any other ground than the assertion of a right, on the part of Great Britain, to employ officers and agents to recruit her military forces within our limits, in defiance of our laws *and our sovereign rights*. It is not anticipated that any such pretexts will be alleged; it certainly cannot be permitted to be a subject of discussion."

This despatch, we repeat, was written on the 15th of July, 1855 (for dates are important here), and was received by Mr. Buchanan, it is reasonable to suppose, about the 1st of August. The reply of Lord Clarendon to Mr. Buchanan's letter, written in obedience to Mr. Marcy's first instructions, had been received by Mr. Buchanan on the 18th of July, and was therefore in his hands when Mr. Marcy's second letter, containing the above specifications, reached him. Now, it is to be borne in mind that Lord Clarendon's reply does not even allude to the "*international aspect*" as presented in the foregoing extracts. What thereupon did Mr. Buchanan do? Did he open the correspondence anew for the purpose of pressing upon the British Government these questions thus raised, and which he had premitted in his former despatch, or which, if contained in it, as the "Union" insists, Lord Clarendon had not noticed at all? Did Mr. Buchanan think these representations sufficiently important to justify a new demand for "*reparation*" at the hands of Great Britain? *By no means*. He did not even send a copy of this second despatch to the British Government until months after it had been received. He thought the reply of Lord Clarendon had covered the whole ground of our complaint, and therefore avoided stirring the matter afresh. This course, however, does not seem to have satisfied our Department of State; and Mr. Marcy himself accordingly took the matter in hand, and in a letter dated September 5, 1855, *addressed to Mr. Crampton*, brought the "*international aspect*" of the case directly to the attention of the British Government, and complained that it had been "*overlooked*" in the

anterior correspondence on the subject. "Overlooked" *by whom?* Evidently by both Lord Clarendon and Mr. Buchanan; by the latter as well as the former, since Mr. Buchanan had been satisfied, as we shall presently see, by the reply of Lord Clarendon, in which there is no apology for the "double offence" specified by Mr. Marcy. This dissatisfaction of our Government with what had satisfied Mr. Buchanan appears in the following extracts from Mr. Marcy's despatch to Mr. Crampton:—

"In authorizing a plan of recruitment which was to be carried out in part within our territories, *the British Government seems to have forgotten that the United States had sovereign rights, as well as municipal laws, which were entitled to its respect.* For very obvious reasons the officers employed by Her Majesty's Government in raising recruits from the United States would, of course, be cautioned to avoid exposing themselves to the penalties prescribed by our laws; but the United States had a right to expect something more than precautions to evade those penalties. They had a right to expect that the Government and officers of Great Britain would regard the policy indicated by these laws, and respect our sovereign rights as an independent and friendly Power.

"*It is exceedingly to be regretted that this international aspect of the case was overlooked.* As to the officers of the British Government, it is not barely a question whether they have or have not exposed themselves to the penalties of our laws, but whether they have in their proceedings violated international law and offered an affront to the sovereignty of the United States. As functionaries of a foreign Government, their duties towards this country as a neutral and sovereign Power are not prescribed by our legislative enactments, but by the Law of Nations. In this respect their relation to this Government differs from that of private persons. Had there been no Acts of Congress on the subject, foreign Governments are forbidden by that law to do anything which would in any manner put to hazard our position of neutrality in respect to the belligerents.

"The information which has been laid before the President has convinced him that the proceedings resorted to for the purpose of drawing recruits from this country for the British army have been instigated and *carried on by the active agency of British officers, and that their participation therein has involved them in the double offence of infringing our laws and violating our sovereign territorial rights.*"

How far the "Union" is correct in asserting that Mr. Buchanan presented the "international aspect of the case" to the attention of the British Government may be inferred from the following language (complaint, we might say) addressed to Mr. Buchanan by Mr. Marcy, under date of October 1, 1855:—

"The second despatch to you on the subject [*i. e.* Mr. Marcy's letter of July 15] showed that the ground of grievance was not confined to the mere fact of a violation of our Neutrality Laws by British officers. *It presented the case as a national offence committed by them, irrespective of those laws.* These officers may have contrived to shield themselves from the penalties of our laws, and yet have committed an offence against our sovereign territorial rights. *This latter aspect of the case was distinctly presented in my last despatch to you on the subject. It was THIS view of the case which the President wished you to present to Her Majesty's Minister of Foreign Relations.*"

Thus tacitly reminded of his remissness in not having presented to the notice of the British Government the "national offence" committed by British officers, "irrespective of our laws," Mr. Buchanan found it necessary to place himself "*rectus in curia*," and thus to exculpate himself from the implied charge of official negligence. He did so in the following words, which sufficiently show that at the time he received Lord Clarendon's answer to his first communication he thought it an ample apology for all our "affronts," inasmuch that he felt himself warranted in holding back Mr. Marcy's letter of July 15. He writes as follows, under date of October 30, 1855, more than three months after he had received Lord Clarendon's reply of the 15th of July, and after Mr. Marcy's letter of July 15 had been in his hands at least more than two months:—

"But I have not since taken any action upon your letter of July 15, *for the plainest reason.* I had, previously to its arrival, transmitted to you a copy of Lord Clarendon's note, already referred to, of the 16th July, on the subject of the enlistment and employment of soldiers for the British army within our limits, and had informed his Lordship, in acknowledging the receipt of this note, that

I should have much satisfaction in transmitting a copy of it to the Secretary of State. Of course it would have been improper for me to take any new step in this matter until I should learn whether this note would prove satisfactory to yourself. Again, your letter of July 15 states, that after many months had elapsed, British officers were still proceeding to violate our laws, and persist 'in carrying on the obnoxious scheme without any open disapproval by the Home Government or any attempt to arrest it;' and one of the two express instructions which the President gives me in conclusion is, 'to say to Her Majesty's Government that he expects it will take prompt and effective measures to arrest their proceedings.' Now these measures had already been adopted, but could not possibly have been known to you. LORD CLARENDON'S NOTE HAD ENTIRELY CHANGED THE ASPECT OF THE CASE FROM THE VIEW WHICH YOU TOOK OF IT, and must necessarily have taken of it, at the date of your letter of July 15. *The general tenour of this note—its disavowals and its regrets—were certainly conciliatory*, and the concluding paragraph, declaring that all proceedings for enlistments in *North America* had been put an end to by Her Majesty's Government, for the avowed reason that the advantages which Her Majesty's service might derive from such enlistments would not be sought for by Her Majesty's Government if it were supposed to be obtained in disregard of the respect due to the law of the United States, WAS HIGHLY SATISFACTORY. IT WAS FOR THESE REASONS THAT I EXPRESSED THE SATISFACTION I WOULD HAVE IN COMMUNICATING IT TO YOU. Then came the declaration of Lord Palmerston to the same effect in the House of Commons, on the 2nd August, in which he explicitly declared that, in order to avoid questions with the United States, the Government 'had put an end to the enlistment of forces which used to take place at Halifax.' This declaration was to my knowledge received with much satisfaction by Mr. Milner Gibson, who had made the inquiry of Lord Palmerston, as well as by many other liberal members of Parliament. Very different indeed had been the conduct of the British Government in this respect towards certain continental States. *I can assure you that I did not entertain the most remote idea that this question had not been satisfactorily adjusted until I learned the complicity of Mr. Crampton in the affair.*"

Thus it will be seen that though Mr. Marcy had, in the opening paragraph of his first letter to Mr. Buchanan, used the following language with reference to British recruitment in the United States, "*Besides being a disregard of our sovereign rights as an independent nation, the procedure was a clear and manifest infringement of our laws, enacted for the express purpose of maintaining our neutral relations with other Powers;*" and though in his second despatch he had "distinctly presented" the "international aspect" of the case, yet Mr. Buchanan took no action upon this point, because he "did not entertain the most remote idea that this question had not been satisfactorily adjusted" by Lord Clarendon's apologetic note of July 16, "until he (Mr. Buchanan) had learned the complicity of Mr. Crampton in the affair."

This statement of the case, therefore, as derived from the documents themselves, abundantly supports the following conclusions:—

1. That Mr. Buchanan did *not* present to the British Government the "international aspect" of the Recruitment Question.
2. That when it was "distinctly presented" to him in Mr. Marcy's second despatch of July 15, he did not think it of sufficient importance to make it the subject of a new demand on the British Government.
3. That the apologetic letter of Lord Clarendon of the 16th of July was deemed by Mr. Buchanan a sufficient satisfaction for the grievances contained in both of Mr. Marcy's despatches, that of June 9th and that of July 15th, since he took no further action under the latter, and expressed his satisfaction at Lord Clarendon's reply to the representations of the former.

Such being the facts as they appear on the face of the correspondence, let us now see the commentary on them by the Government journal. We quote from the "Union" of Tuesday last:—

"We have read the correspondence on this great question with care, and we have found, throughout the surpassingly able despatches of Mr. Marcy, *that he has invariably laid most stress upon the injury done to our sovereign rights.* It is true the violation of the Municipal Code was also a wrong done to the sovereignty of the country, *but Mr. Marcy complained chiefly of the injury done to that portion of the Law of Nations to which the Municipal Code does not apply,*

and which rests for its security upon the good faith of nations. In the despatch of the 9th of June, before alluded to, he says, 'Besides being a disregard of our sovereign rights as an independent nation, the procedure was a clear and manifest infringement of our laws.' *Here are two distinct grounds of complaint.* It is first avowed that our sovereign rights under the protection of National Law had been invaded; and, next, that the Municipal Law passed for the very purpose of vindicating these rights in certain cases was wantonly disregarded. *Even if satisfaction had been rendered for the violation of the Municipal Law, that would be a very imperfect atonement for the whole injury inflicted on the sovereign rights of the nation.* If the United States should not insist upon redress for the wrong done to these rights, what security would that be against aggressions committed under that comprehensive branch of public law called the Comity of Nations? That is a living principle of the code which regulates their intercourse, and is as essential to the honour and character of nations as are the rules of social intercourse to the harmonious progress of society. In the imperfect state of human laws it is not possible to charge courts with the administration of either, and it is the peculiar function of other branches of the Government to determine the kind and amount of redress that their violation by foreign Powers may demand; and to this duty President Pierce's Administration has devoted itself with signal ability and a just appreciation of what is due to us as a nation. *In the instructions to Mr. Buchanan of the 15th July, Mr. Marcy repeated with renewed earnestness the repugnance of this Government to the proceedings of the British recruiting agents, and said it showed contempt for our sovereign rights extremely offensive to this Government, demanded its cessation and satisfaction for what had been done. About this time Lord Clarendon was inditing the so-called apology which Lord Palmerston has had the hardihood to say in the House of Lords ought to satisfy ten Governments. It will be perceived from that apology what estimate his Lordship places on American rights and American honour. Here is the apology. Lord Clarendon says 'he must express the regret of Her Majesty's Government if the law of the United States has been in any way infringed by persons acting with or without any authority from them,' and then adds that 'any such infringement of the law of the United States is entirely contrary to the wishes and to the positive instructions of Her Majesty's Government.'*

"He then proceeds to argue that the law has not been violated; but, if it has, it was done by volunteer and not authorized agents.

"*In this alleged apology he overlooks entirely the chief grievance complained of. No allusion whatever is made to the injury done to our sovereign rights. The regret so constantly insisted on by Mr. Marcy has reference only to our Municipal Law, and is offered in case the law has been violated. But his Lordship then attempts to show that, in his opinion, no violation of it occurred, and hence the condition on which his regret has to take effect fails, and his apology is reduced to nothing. This, however, is what Lord Palmerston said ought to satisfy ten Governments like that of the United States.*"*

Mr. Buchanan will surely have great reason to pray that he may be "saved from his friends" if he has many such as the "Union," for we have rarely seen in so few paragraphs such a volley of charges as are pronounced upon him in the above excerpt. Let us briefly analyze them:—

1. The "Union" says it finds that Mr. Marcy, "throughout" his despatches, "has invariably laid most stress upon the injury done to our sovereign rights." Mr. Buchanan had not the perspicacity to perceive it.

2. "Mr. Marcy," says the "Union," "*complained chiefly of the injury done to that portion of the Law of Nations to which the Municipal Code does not apply.*" Mr. Buchanan made no such "*chief complaint.*"

3. In his first despatch Mr. Marcy, as the "Union" states, had made "*two distinct grounds of complaint.*" Mr. Buchanan made only one.

4. "Even if satisfaction had been rendered for the violation of the Municipal Law, *that,*" argues the "Union," "*would be a very imperfect atonement for the whole injury inflicted on the sovereign rights of the nation.*" Mr. Buchanan *was* satisfied with the "atonement" made in behalf of our Municipal Law.

5. "Mr. Marcy," urges the "Union," "*in the instructions to Mr. Buchanan of the 15th July, repeated with renewed earnestness the repugnance of this*

* The remark here ascribed to Lord Palmerston was made by the London "Times," but not in the language in which the "Union" places it. The words of the "Times" are, "England has already apologised enough to satisfy ten European Empires."

Government to the proceedings of the British recruiting agents, and said it showed a contempt for our sovereign rights." Mr. Buchanan did not renew his appeal to the British Government, but, "for the plainest reason," thought it useless to take any action upon this second despatch.

6. Lord Clarendon's "so-called apology" of July 16 is cheaply rated by the "Union," as manifesting that his Lordship places but an humble "estimate on American rights and American honour." Mr. Buchanan was satisfied with the "so-called apology," and hence had not a proper appreciation of "American rights and American honour" (according to the "Union").

7. "In this alleged apology," continues the "Union," "Lord Clarendon overlooks entirely the chief grievance complained of. No allusion whatever is made to the injury done to our sovereign rights." Mr. Buchanan, then, was satisfied with an apology which "overlooks" our chief grievance, and in which "no allusion is made to our sovereign rights."

8. The regret of Lord Clarendon, says the "Union," was so explained away "that the condition on which his regret has to take effect fails, and his apology is reduced to nothing." Therefore Mr. Buchanan was deluded into accepting as satisfactory an apology which was *none*.

These are grave charges against the veteran diplomatist, and are rendered only more keen because the wounds are inflicted in the house of his friends. In assailing the "Intelligencer" for modestly "intimating" the same view of the matters in controversy as appears to have been taken by Mr. Buchanan in the early part of the correspondence on this subject, the "Union" has been really dealing its blows upon that distinguished gentleman. Whether this was intentional or unintentional on the part of the Government journal we shall not undertake to say. Charity bids us hope the former.

We have said all that was needed for our own defence. We regret that it has become necessary for us again to allude to a subject upon which we had wished to touch gently; and most of all do we regret that we have been compelled to expose the assaults of the "Union" upon Mr. Buchanan as well as ourselves. We had no right to expect any clemency at its hands, but it would seem that a due regard for Mr. Buchanan's "complicity" with us in our error should have saved us from denunciation which lights upon *his* head as well as *ours*.

In conclusion, we need but repeat what we have already said on another occasion, that in thus sifting this correspondence we have not intended to utter or to insinuate a single word in derogation from the just praise due to the Administration for its zeal in preserving the integrity of our neutral obligations; and, if these do not cover all the exigencies of the case, we shall not take any exceptions even to the necessary vindication of "our sovereign territorial rights." That the latter are distinct from the former *may be* true, though we may still be pardoned, we hope, if we "intimate" again that to a "plain understanding" the distinction, for all practical purposes, is rather "metaphysical than real," and hardly seems to demand a separate apology in addition to that tendered us with regard to our "Neutrality Laws." But on this point, as we said before, it becomes us to speak with great deference to the superior legal lore and diplomatic experience of our distinguished Secretary of State.

No. 83.

Mr. Crampton to the Earl of Clarendon.—(Received April 12.)

My Lord,

Washington, April 1, 1856.

I HAVE the honour to inclose an extract from the "National Intelligencer," containing an account of some proceedings in the United States' District Court of New York, by which it would appear that the United States' Government has entered a *nolle prosequi* in the case of certain persons charged with a violation of the Neutrality Laws of the United States by recruiting soldiers therein for Her Majesty's service.

Your Lordship will observe that those persons who have any official relation with the British Government are, by the direction of the Attorney-General of the United States, excepted from this act of indulgence.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 83.

Extract from the "National Intelligencer" of March 31, 1856.

THE ENLISTMENT CASES AT NEW YORK.

ON Thursday last, in the United States' District Court at New York, Mr. McKeon, the United States' District Attorney, addressed the Court as follows:—

"About a year back, and some time subsequently, complaints were made against persons for enlisting troops in this district for the service of the British Government, and it being an object of great solicitude to preserve the neutrality of the United States with nations with which we are at peace, these complaints were sent before the grand jury; indictments were found, and one of the parties was tried and convicted, and is now suffering the consequence of his crime by imprisonment. After that conviction I addressed a letter to the Attorney-General of the United States, to which I received the following reply:—

" 'Sir,

" 'Attorney-General's Office, October 20, 1855.

" 'I have the honour to acknowledge the reception of your two communications of the 16th and 17th instant, in which you inform me of the conviction of Joseph Wagner, accused of the offence of being engaged unlawfully in recruiting troops within the United States for the service of Great Britain, and requesting instructions as to other indictments, of the same class, still pending in your district. These prosecutions were instituted primarily for the purpose of arresting the continued perpetration of acts derogatory to the sovereignty and public honour and contrary to the neutral policy of the United States. The punishment of crime in these, as in all other cases of infringement of statute provisions, of whatever nature, was an object also, but in these particular cases a secondary one; for the individual misdemeanor of the parties implicated, whether they be citizens or foreigners, and whether private or official persons, is but a minor incident of the national indignity and wrong inflicted on this Government by the foreign Government in whose behalf and for whose benefit they presume to violate the laws of the United States. If, therefore, you find what has thus far been done by you, so judiciously and successfully, suffices to vindicate public justice within your district, you will make such disposition as in your discretion seems best of the remaining complaints against any persons who do not hold an official relation to the British Government. As to guilty persons of the latter description, whether yet under prosecution or not, their criminal acts stand on a different ground, and additional instructions regarding them will be forwarded to you in due time. Such persons are not only indictable, in common with all others who violate the law of the land, but they are also violators of the international law, and subject to special consideration by the United States, unless disavowed and punished by their own Government.

" 'I have, &c.

" 'Hon. John McKeon,

(Signed)

" 'C. CUSHING.

" 'United States' District Attorney, New York.'

"Mr. McKeon said, after reading the letter, I have delayed until now to act upon these suggestions. But it is no longer a question between the Government and the individuals who were indicted, but has become a matter between the Government of the United States and that of Great Britain, and upon which, I trust, the verdict of the civilised world will be in favour of this Union. I now

ask permission of the Court to enter a *nolle prosequi* upon the indictment, which I shall hand to the clerk, and in which I do not include any person holding an official relation to the British Government."

The Court gave the permission asked for.

No. 84.

The Earl of Clarendon to Mr. Dallas.

Foreign Office, April 30, 1856.

THE Undersigned, &c., had the honour to receive, on the 29th of January, from Mr. Buchanan, Envoy Extraordinary and Minister Plenipotentiary of the United States at this Court, a copy of a despatch dated the 28th of the previous December, addressed to Mr. Buchanan by Mr. Marcy, Secretary of State of the United States, containing observations on a despatch which the Undersigned had directed Her Majesty's Minister at Washington to communicate to Mr. Marcy. Mr. Marcy's despatch was in continuation of the discussion which had been some time pending between the two Governments, on the subject of the conduct which was alleged by the Government of the United States to have been pursued by certain of Her Majesty's officers in giving effect to the intentions of Her Majesty's Government to receive into the military service of the Queen any persons who, coming from any quarter into Her Majesty's dominions, might there be willing to engage in that service.

The Undersigned has hitherto deferred replying to Mr. Marcy's despatch, not only because it was more consistent with the respect which Her Majesty's Government entertain for the United States, thoroughly to inquire into the allegations contained in it, but also because it was just and right towards Her Majesty's officers whose conduct was impugned, to put them in possession of the charges brought against them, and to give them that opportunity of explanation and defence which was then for the first time afforded them.

The Undersigned, before he adverts to Mr. Marcy's last despatch, must express his deep regret that the Government of the United States should have deemed it necessary to continue a controversy on a question which Mr. Buchanan considered at the time would be finally settled by the note of the Undersigned of July 16, 1855; a note which Mr. Buchanan said he would transmit with much satisfaction to his Government. The Undersigned had indeed hoped that that note, together with his subsequent communications of the 27th of September to Mr. Buchanan, and of the 16th of November, through Mr. Crampton, to the Government of the United States, would have been accepted by a friendly Government such as that of the United States, as a disclaimer of any intention to give offence, and as a satisfaction for any offence which that Government might have been led by circumstances to think had, though unintentionally, been given.

For what has been the course of the transactions which have given rise to this correspondence?

On the breaking out of the late war between the Western Powers and Russia, the British Government was informed that many persons resident within the United States—some, natives of the continent of Europe, and some, natural-born subjects of Her Majesty—were desirous of entering into the military service of Great Britain. The British Government, believing the information they had received on this matter to be well-founded, and being anxious to increase as rapidly as possible their military force, took steps to avail themselves of this disposition, and gave directions that any persons presenting themselves within the British North American Provinces, willing to enlist and found fit for service, should be engaged for the British army. But Her Majesty's Government gave the most positive orders that in making arrangements for this purpose nothing should be done to infringe in any manner whatsoever the Neutrality Laws of the United States.

It was not doubted that such arrangements might be carried into execution without any violation of those laws, because those laws prohibit enlistments or engagements only within the territories of the United States; they do not forbid citizens of the United States or residents therein from leaving those territories, nor do they forbid such citizens or other persons from engaging or enlisting in

military service elsewhere, when of their own free-will and without any previous contract or engagement they may have left those territories.

The intentions of the British Government, and the arrangements made to carry those intentions into execution, were not concealed from the Government of the United States.

Those intentions and arrangements were frankly stated by Mr. Crampton to Mr. Marcy in a conversation on the 22nd of March, 1855, and the only observations which Mr. Marcy made in reply were that the Neutrality Laws of the United States would be rigidly enforced, but that any number of persons who desired it might leave the United States, and get enlisted in any foreign service.

Up to this point, therefore, there was no misunderstanding as to the purpose of the British Government, and no difference of opinion as to the legality of the course which that Government intended to pursue.

But the British Government soon found, by accounts which reached them from the United States, that it would be difficult to prevent the execution of the contemplated arrangements from being attended by circumstances which might give rise to discussions between the two Governments. It was seen that, however strict might be the orders of Her Majesty's Government that nothing should be done in contravention of the laws of the United States, and however scrupulous Her Majesty's officers in America might be in obeying those orders, yet a misconception of the precise bearing of those laws might lead some of those officers unintentionally to overstep their limits, while other persons, either from honest zeal or for the sake of gain, or from a desire to entrap Her Majesty's officers, might do things at variance with the provisions of those laws. Her Majesty's Government, therefore, being most anxious that nothing should happen to disturb the good understanding between the two Governments, and being desirous of showing unequivocally their respect for the laws of the United States, at once, and of their own accord, determined to give up the further prosecution of the arrangements in question, and they accordingly sent out to Canada and to Nova Scotia on the 22nd June, 1855, orders to discontinue all further proceedings in the matter of enlistment for the Foreign Legion.

A fortnight after these orders had been sent out, the Undersigned received from Mr. Buchanan a note dated July 6, alleging that the Neutrality Laws of the United States had in many instances been violated by persons taking steps, either with or without the approbation of the British Government, for the purpose of engaging or enlisting within the United States recruits for the British service; and Mr. Buchanan, in the conclusion of his note, stated that "the President would be much gratified to learn that Her Majesty's Government had not authorized the proceedings complained of, but had condemned the conduct of its officials engaged therein, and had visited them with its marked displeasure, as well as taken decisive measures to put a stop to conduct contrary to the Law of Nations, the laws of the United States, and the comity which ought ever to prevail in the intercourse between the two friendly Powers."

The Undersigned, in reply to this note, expressed to Mr. Buchanan, on the 16th of July, the regret of Her Majesty's Government if the law of the United States had been in any way infringed by persons acting with or without authority from Her Majesty's Government; and he stated that any such infringement of the law of the United States would be contrary to the wishes and the positive instructions of the British Government.

The Undersigned went on to explain his reasons for believing that no person authorized to act for the British Government had violated the law of the United States; and in conclusion, he stated that the request of the President that decisive measures might be taken to put an end to these proceedings had been anticipated by the spontaneous act of Her Majesty's Government, who had, a fortnight before the receipt of Mr. Buchanan's note, sent out orders to put an end to the arrangement for enlisting within the North American Provinces persons who might come there from other places.

Mr. Buchanan, in reply, said, in a note dated the 18th of July, that he should feel much satisfaction in transmitting to his Government the note of the Undersigned.

So strong appears to have been the impression on the mind of Mr. Buchanan, of the satisfactory nature of this communication, that when afterwards he

received a despatch from Mr. Marcy with renewed instructions to address remonstrances to the British Government on the subject of the recruiting proceedings, he abstained from acting upon those instructions, and withheld Mr. Marcy's despatch containing them from the knowledge of Her Majesty's Government, obviously because he perceived by its date, the 15th of July, that it was written long before the note of the Undersigned of the 16th of July could have been received by Mr. Marcy, and because he concluded that when that note should have been received the Government of the United States would be satisfied with its contents. For a considerable time this conclusion appeared well founded. On the 5th of September, however, Mr. Marcy addressed a note to Mr. Crampton, not alleging that fresh subjects of complaint had arisen since the receipt in America of the British orders of the 22nd of June, but going back to the same transactions to which Mr. Buchanan's note of the 6th of July had adverted, and renewing all his original complaints, as if no notice had been taken of his former representation, as if no regret had been expressed, and as if no measures had been adopted to put an instant stop to the proceedings out of which his complaints had originated.

A communication so much at variance with what Mr. Buchanan's note of the 18th of July had led Her Majesty's Government to expect might well be received with some feelings of surprise, inasmuch as they believed that they had given to the Government of the United States every satisfaction which one Government could reasonably expect to receive from another in a case of this kind.

The Undersigned, however, on the 27th of September replied to Mr. Marcy's note, answering the allegations renewed in it, and repeating that Her Majesty's Government had no reason to believe that any of Her Majesty's servants, or any Agents duly authorized by them, had disregarded the injunctions to respect and to obey the laws of the United States.

Nevertheless the Government of the United States still considered this answer unsatisfactory, and on the 13th of October, Mr. Marcy addressed another despatch on these matters to Mr. Buchanan, which was communicated to the Undersigned on the 1st of November. In that despatch Mr. Marcy renews his general assertions that Her Majesty's officers in America had violated the laws of the United States; he refers to his despatch of the 15th July, which Mr. Buchanan had abstained from communicating on the supposition that the note of the Undersigned of the 16th July had finally settled the question at issue, and he states that the said despatch of the 15th of July indicated the satisfaction which the Government of the United States believed it had a right to claim from the Government of Great Britain.

This despatch of the 15th of July, which was not communicated to the Undersigned by Mr. Buchanan till the 2nd of November, concludes by saying that "the President is disposed to believe that Her Majesty's Government has not countenanced the illegal proceedings of its officers and agents since its attention was first directed to the subject, and will consider it alike due to itself and to the United States to disavow their acts and deal with them in such a manner as their grave offence merits," but that "as recruiting for the British army, in the mode alluded to, is still prosecuted" (as he believed) "within the United States by officers and agents employed for that purpose, the President instructs Mr. Buchanan to say to Her Majesty's Government that he expects it will take prompt and effective measures to arrest their proceedings, and to discharge from service those persons now in it who were enlisted within the United States, or who left the United States under contracts made here to enter and serve as soldiers in the British army."

This then is the satisfaction which, as late as the 13th of October, Mr. Marcy declared was that which the Government of the United States demanded.

With respect to the first part of this demand Her Majesty's Government deny that any illegal proceedings were, so far as they knew, committed by its officers or authorized agents, and therefore they have none to disavow, and no officers or agents to deal with as offenders. With regard to the other points specified by Mr. Marcy, the Undersigned on the 16th of November, deeming it respectful to the Government of the United States to do so, entered into a detailed, and as he had hoped a satisfactory reply to the arguments and statements contained in Mr. Marcy's despatch of the 13th of October. In that reply the Undersigned stated that the most material point, that of the alleged recruiting,

had been already disposed of; for, nearly four months before the date of that despatch, the recruiting arrangements and proceedings had been abandoned by orders sent by Her Majesty's Government on the 22nd of June; and that the second part of the satisfaction required it was not in their power to give, because no person had to their knowledge been enlisted within the United States, or left the United States under contract made therein to enter into service in the British army. And he further added that if it could be shown that any men had been so enlisted, they should immediately be discharged and sent back to the United States.

The Undersigned thus showed that the satisfaction claimed by the Government of the United States had long since been given as far as it was in the nature of things possible to give it, and, in addition to the satisfaction asked for, he expressed the regret of Her Majesty's Government if anything had been done by any person, authorised or unauthorised, which could be considered an infringement of the law of the United States.

It might naturally have been supposed that the correspondence would here have ended. Regret had been expressed for any infringement of the law of the United States, if any had taken place, notwithstanding the positive and repeated orders of Her Majesty's Government to the contrary. The satisfaction which the Government of the United States after mature deliberation had demanded had either been spontaneously and by anticipation granted, or had been shown to be impracticable because there was no man in the British service whose enlistment, or contract to enlist, had, to the knowledge of Her Majesty's Government, taken place in the manner specified by Mr. Marcy in his despatch of the 15th of July, and whose discharge, therefore, could form part of the satisfaction indicated by Mr. Marcy. Her Majesty's Government, however, expressed their readiness to give that satisfaction also, if any case should be established to which it could apply.

Her Majesty's Government were, however, disappointed in the confident expectation which they had entertained that this further explanation would prove satisfactory, for on the 29th of January of the present year Mr. Buchanan communicated to the Undersigned a despatch from Mr. Marcy, dated the 28th of December preceding, recapitulating the complaints of the Government of the United States and making a demand in the way of satisfaction different from those which were mentioned in Mr. Marcy's note of the 15th of July, and which were referred to in his despatch of the 13th of October as the satisfaction which the Government of the United States believed itself entitled to claim. This demand consisted in an application for the recall of Her Majesty's Minister at Washington, and of Her Majesty's Consuls at Philadelphia, New York, and Cincinnati. It will naturally be asked whether any new ground had been found for this demand, or whether any new event had happened between the 13th of October and the 28th of December, in which these officers of Her Majesty had been concerned. Nothing of the kind had taken place, and the accusations made against these officers in Mr. Marcy's despatch of the 28th of December rest upon statements which were equally within the knowledge of the Government of the United States on the 13th of October, when no such demand was made.

Before the Undersigned proceeds to reply to Mr. Marcy's note of the 28th of December, he must notice an erroneous construction which Mr. Marcy has there put upon a passage in a despatch of the 12th of April, 1855, from the Undersigned to Mr. Crampton, which was communicated by him to Mr. Marcy. The passage is as follows:—"I entirely approve of your proceedings as reported in your despatch No. 57 of the 12th ultimo, with respect to the proposed enlistment in the Queen's service of foreigners and British subjects in the United States." Mr. Marcy assumes, and argues upon the assumption, that the meaning of this passage was, that the enlistments of the persons mentioned, and which were approved of by Her Majesty's Government, were to take place within the United States; whereas the sentence, according to its obvious meaning, relates to foreigners and British subjects resident in the United States. The word "in" has reference to the place where they resided, and not to the place where they were to be enlisted; and if any doubt could arise on this point that doubt must have been removed by the concluding passage, which adverts to the Neutrality Law of the United States, and says that Her Majesty's Government would on no account run any risk of infringing that law. This construction of

the passage under consideration does not appear to have occurred to Mr. Marcy at the time when the despatch of the Undersigned of the 12th of April was communicated to him by Mr. Lumley. So far from it, Mr. Marcy expressed to Mr. Lumley his satisfaction with that despatch, and desired that he might be furnished with a copy of it, in order that he might show it to his colleagues.

The Undersigned must also further observe that Mr. Marcy, in the same despatch, has misconceived the meaning of an expression used by the Undersigned in making an offer, above referred to, that any man who might have been enlisted within the United States should be immediately discharged and sent back. The reference there made to British law was merely intended to indicate that if persons had been enlisted under the circumstances supposed, such enlistment would have been at variance with British, as well as with American, law; but the Undersigned did not mean that respect would not be paid, in the discharge of men, to the principles of the law of the United States alone, should that law appear to have been violated in a single case.

In reply to the general statements of Mr. Marcy's despatch, the Undersigned must repeat that Her Majesty's Government gave the most positive orders that no man should be enlisted or engaged within the territory of the United States, and that the Neutrality Laws of the United States should be strictly and scrupulously respected. But Mr. Marcy now contends that this was not enough, and though in conversation with Mr. Crampton, on the 22nd of March 1855, he said that he could not object to any number of persons going to Nova Scotia, to be there enlisted, provided the Neutrality Laws of the United States were not infringed, he now argues that the enlistment in Nova Scotia of persons coming thither from the United States, was a violation of the policy of the United States, and that not to respect that policy was an offence on the part of Great Britain against the sovereign rights of the United States.

Now in reply to this the Undersigned begs to observe, that the policy of a nation in regard to its internal arrangements must be sought for in the laws of that nation; that what those laws forbid, it must be understood to be the policy of the State to prohibit, and that what those laws do not forbid, it must be understood to be the policy of the State to allow. In every State, whatever may be its form of Government, there is a Sovereign Power; that Sovereign Power may impose upon the subjects or citizens of such State what duties, obligations, and restrictions it may think fit, and it is a necessary conclusion that when the Sovereign Power puts a limit to its enactments, whether of obligation or of prohibition, it means to leave its subjects or citizens free in regard to all matters not within the enactments of the law. This principle is indeed admitted by Mr. Buchanan's note of the 6th of July, wherein he lays it down that the neutral policy of the United States is "defined and enforced" in the Statute of 1818.

Different countries have different laws in regard to the enlistment of their subjects and citizens in the military and naval service of other States, and these laws vary according to the different policy of these countries with respect to such matters.

In Great Britain the law not only prohibits recruiting or enlisting within the British dominions for the service of any foreign State, without the permission of the Sovereign, but it goes further, and prohibits any subject of Her Majesty from so enlisting, even elsewhere, without the Royal permission. The policy of Great Britain hence appears to be to prevent British subjects from entering at all into the service of foreign States without the permission of the Crown.

The law of the United States appears to be different. Her Majesty's Government understood, and that understanding is confirmed by Mr. Buchanan's note of the 6th of July, that the law of the United States only forbids enlistments, recruiting, and contracts or engagements within the United States, and hiring or retaining persons to quit the United States with intent to be enlisted elsewhere, but it does not forbid citizens of the United States, who may have used their natural right of quitting the United States, to enlist into the service of a foreign State when they have left their own country. The sovereign power of the United States might, if it had chosen to do so, have followed its citizens with a prohibitory enactment beyond the territory of the United States; but it has not thought fit to do so, and the just and inevitable conclusion is that what it might have forbidden, but has not forbidden, it has designedly allowed; that is to say, in other words, that it is the policy of the United States to prevent foreign

enlistments within the United States, but that it is not the policy of the United States to forbid the citizens of the United States to enlist, when out of the United States, into the service of foreign States, if they should choose to do so.

Such being the state of this matter, it is obvious that the British Government cannot justly be charged with any disregard of the policy of the United States, nor with any disrespect to their sovereign rights, by taking into the Queen's military service any persons who, having come from the United States, freely and without contract or engagement, into a British territory, might there be willing to enlist.

The real questions at issue between Her Majesty's Government and that of the United States, are, whether the British Government ordered or contemplated any violation of the Neutrality Laws of the United States; whether, if the British Government did not order or contemplate such violation, those laws were nevertheless violated by persons acting with the authority or approbation of the British Government; and lastly, whether if any violation of the law of the United States did take place, sufficient satisfaction has been given to the Government of that country.

In regard to the first point, the British Government neither ordered nor contemplated any violation whatever of the laws of the United States, but, on the contrary, issued the most positive and repeated orders that those laws should not be infringed by any persons acting under their authority.

In regard to the second point, Mr. Marcy alleges that notwithstanding the orders of the British Government, officers and agents of that Government did within the United States do things which were a violation of the Neutrality Laws of the United States, and Mr. Marcy specifically makes this charge against Mr. Crampton, Her Majesty's Minister at Washington, and against Her Majesty's Consuls at Cincinnati, Philadelphia, and New York.

With respect to Mr. Crampton, the Undersigned has to state that Mr. Crampton positively and distinctly denies the charge brought against him; he declares that he never hired or retained or engaged a single person within the United States for the service of Her Majesty, and that he never countenanced or encouraged any violation of the law of the United States. The charge brought against Mr. Crampton is mainly founded upon evidence given by Strobel on the trial of Hertz, and on the so-called confession of Hertz himself. One of these persons, Strobel, was, in consequence of his misconduct, dismissed from employment by the Lieutenant-Governor of Nova Scotia at Halifax, and afterwards applied to Mr. Crampton, and endeavoured to extort money from him by a threat, which was of course disregarded. The Undersigned has the honour to transmit as inclosures to this note documents which sufficiently prove that both Strobel and Hertz are wholly unworthy of credit. It is impossible for Her Majesty's Government to set the assertions of such men as these against the declaration of Mr. Crampton, a man of unquestionable honour.

The Undersigned must, indeed, remark that the whole proceeding in regard to the trial of Hertz was of such a nature that, whilst Her Majesty's Minister and Her Majesty's Consuls might be, and indeed were, inculpated by the evidence of unscrupulous witnesses, that Minister and those Consuls had not any means or any opportunity of rebutting the charges which were thus incidentally and indirectly brought against them.

With regard to Her Majesty's Consuls at Cincinnati, Philadelphia, and New York, they all equally deny the charges which have been brought against them, and they declare that they have in no way whatever infringed the laws of the United States.

With respect to Mr. Rowcroft, Her Majesty's Consul at Cincinnati, the Undersigned has to observe that legal proceedings against that gentleman are still pending. As to the origin, character, and nature of those proceedings, the Undersigned might have much to say; but, as they are still pending, he abstains from doing so. He must, however, be permitted to remark that it would, at all events, be inconsistent with the plainest principles of justice, to assume as established, charges which are still the subject-matter of judicial investigation.

The accusation against Mr. Mathew, Her Majesty's Consul at Philadelphia, rests entirely upon assertions made by Hertz. Those assertions are positively denied by Mr. Mathew; and Her Majesty's Government can scarcely believe that the Government of the United States, with the knowledge which it will

have obtained of the character of Hertz, will hesitate to concur with the Government of Her Majesty in giving credit to Mr. Mathew.

With respect to Mr. Barclay, Her Majesty's Consul at New York, he declares that he neither favoured the alleged recruiting nor participated in it, nor was informed of the hiring, retaining, or engaging any man for that purpose.

Her Majesty's Government cannot but accept the denial of these gentlemen as more worthy of belief than the assertions and evidence of such men as Hertz and Strobel.

But Mr. Marcy considers that the conduct of Mr. Barclay in the affair of the barque "Maury" ought to be an additional reason why Her Majesty's Government should recall him. Upon this the Undersigned must observe that Mr. Barclay received information on oath from persons in the service of the United States, leading to the belief that the barque "Maury" was fitting out with designs hostile to British interests, and at variance with the Neutrality Laws of the United States. It was Mr. Barclay's bounden duty to communicate that information without delay to Her Majesty's Minister at Washington. Mr. Barclay did so, and his direct action in the matter was then at an end. Mr. Crampton submitted this information to the proper authorities of the United States in order that they might determine what proceedings, if any, it might be right to take thereupon. The officers of the United States considered the *primâ facie* case against the "Maury" to be sufficient to call for proceedings on their part. Such proceedings were accordingly instituted by them, and not by Mr. Barclay, whose conduct in regard to the "Maury" was in strict performance of his duty, and received the approval of Her Majesty's Government.

With regard to the last point, the Undersigned must refer to the offers of satisfaction, and to the explanations already made, and to the repeated expression of the sincere regret of Her Majesty's Government, if, contrary to their intentions, and to their reiterated directions, there has been any infringement of the laws of the United States.

The Undersigned has now had the satisfaction of communicating to the Government of the United States the statements and declarations of Her Majesty's Minister at Washington, and of Her Majesty's Consuls at Cincinnati, Philadelphia, and New York, as to the conduct imputed to them.

The Government of the United States had been led to suppose that the law and the sovereign rights of the United States had not been respected by Her Majesty's Government, and, relying upon evidence deemed to be trustworthy, they believed that that law and those rights had been infringed by British agents. If such had been the case, the Government of the United States would have been entitled to demand, and Her Majesty's Government would not have hesitated to afford, the most ample satisfaction, for no discredit can attach to the frank admission and complete reparation of an unquestionable wrong. Her Majesty's Government, however, unequivocally disclaim any intention either to infringe the law or to disregard the policy, or not to respect the sovereign rights of the United States, and the Government of the United States will now for the first time learn that Her Majesty's Minister at Washington, and Her Majesty's Consuls at New York, Philadelphia, and Cincinnati, solemnly affirm that they have not committed any of the acts that have been imputed to them. The Government of the United States will now also for the first time have an opportunity of weighing the declarations of four gentlemen of uninpeached honour and integrity against evidence upon which no reliance ought to be placed. The Undersigned cannot but express the earnest hope of Her Majesty's Government that these explanations and assurances may prove satisfactory to the Government of the United States, and effectually remove any misapprehension which may have hitherto existed; and he cannot doubt that such a result will afford as much pleasure to the Government of the United States as to that of Her Majesty, by putting an end to a difference which has been deeply regretted by Her Majesty's Government; for there are no two countries which are bound by stronger ties or by higher considerations than the United States and Great Britain to maintain unbroken the relations of perfect cordiality and friendship.

The Undersigned, &c.

(Signed)

CLARENDON.

List of Inclosures in No. 84.

Letter from Captain Strobel to Mr. Crampton, Boston, July 11, 1855.
See page 200.

- Affidavit of M. A. Thoman, October 26, 1855. See page 200.
 Affidavit of Henry J. Fack, November 8, 1855. See page 201.
 Affidavit of Oscar Cromrey, October 27, 1855. See page 201.
 Affidavit of Conr. Flinck, October 20, 1855. See page 202.
 Affidavit of Count L. Kazinski, October 22, 1855. See page 202.
 Affidavit of W. Shumacher, November 24, 1855. See page 204.
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 Affidavit of Thomas Lindsay Bucknall, November 5, 1855. See page 221.
 Affidavit of Ernst Arland, February 29, 1856. See page 223.
 Affidavit of Andrew C. Craig, March 5, 1856. See page 231.
 Affidavit of Philip R. Scherr, March 7, 1856. See page 232.
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RELATIVE TO

RECRUITING

IN THE

UNITED STATES.

Presented to both Houses of Parliament by Command of Her Majesty.
1856.

LONDON:

PRINTED BY HARRISON AND SONS.

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Further Papers relative to Recruiting in the United States.

No. 1.

Mr. Marcy to Mr. Dallas.—(Communicated to the Earl of Clarendon by Mr. Dallas, June 11.)

Sir,

Department of State, Washington, May 27, 1856.

THE President has carefully considered the note of the 30th ultimo, addressed to you by the Earl of Clarendon, Her Majesty's Principal Secretary of State for Foreign Affairs, relative to the questions which have arisen between this Government and that of Great Britain on the subject of recruiting within the United States for the British army; and has directed me to present you to his views thereon, for the purpose of having them made known to Her Majesty's Government. He has been much gratified by the conciliatory spirit of that note, and by the desire manifested by the Earl of Clarendon to adjust the existing difficulties, and to preserve and strengthen the friendly relations between the United States and Great Britain. The vast interest which the Government and people of both countries have in upholding and cherishing such relations, cannot be more solemnly impressed upon Her Majesty's Government than it is upon that of the United States.

The unequivocal disclaimer by Her Majesty's Government of "any intention either to infringe the law or to disregard the policy, or not to respect the sovereign rights of the United States," and their expression of regret "if, contrary to their intentions and to their reiterated directions, there has been any infringement of the laws of the United States," are satisfactory to the President. The ground of complaint, so far as respects Her Majesty's Government, is thus removed. But the President extremely regrets that he cannot concur in Lord Clarendon's favourable opinion of the conduct of some of Her Majesty's officers, who were, as this Government believed, and, after due consideration of all which has been offered in their defence, still believes, implicated in proceedings which were so clearly an infringement of the laws and sovereign rights of this country.

In respect to such of these officers and agents as have no connexion with this Government, it has nothing to ask from that of Her Majesty; but the case is different in relation to Mr. Crampton, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to this Government, and the Consuls at New York, Philadelphia, and Cincinnati. The President is gratified to perceive that Her Majesty's Government would not have hesitated to comply with the request to withdraw these officers from their official positions if it had entertained the views here taken of their conduct in regard to recruiting, contrary to the law and sovereign rights of the United States. I scarcely need say that, in making this request, no interruption of the diplomatic relations between this Government and that of Great Britain was anticipated, but, on the contrary, the President was and is sincerely desirous to keep them upon a most friendly footing.

Mr. Crampton's withdrawal was asked for expressly upon the ground that "his connexion with that affair—raising recruits in this country for the British service—has rendered him an unacceptable Representative of Her Britannic Majesty near this Government." For the same reason, the withdrawal of the three British Consuls was also requested. These officers were, as this Government confidently believes, deeply implicated in proceedings contrary to the law and sovereign rights of the United States, and contrary, as it now appears, to the intentions and reiterated instructions of their own

Government. It was their personal acts, certainly not the less objectionable for having been done contrary to the directions of Her Majesty's Ministers, which rendered them, in their official characters and positions, unacceptable to this Government, and induced the President, for that cause, to solicit their recall, believing that, by this course, he was contributing to the common interest and harmony of the two Governments. He has not, after the most mature deliberation, been able to change his view of their conduct, and cannot therefore change his purpose in relation to them. Though their conduct related to, and in fact originated, a difficulty which disturbed the cordial harmony and good understanding between the two countries, it constituted a decided objection to them of a personal character, which loses none of its force by the satisfactory adjustment of that difficulty. The only embarrassment which attends the case is the difference of opinion between the two Governments as to the complicity of these officers in illegal proceedings within the United States. In reviewing this subject, the President was disposed to avail himself of any reasonable doubts which could be raised in his mind in order to bring his opinion in this respect into conformity with that of Her Majesty's Government; but, after careful re-consideration of the case, he has been unable to change the conclusion to which he had previously arrived.

This difference of opinion may be, in some degree, ascribed to the difference in the views of the two Governments in respect to the Neutrality Law and the sovereign rights of this country. It is not proposed, however, to continue the discussion upon that subject. The conclusions of the President, stated in my despatch of the 28th of December to your predecessor, in regard to the construction of that law and the character and extent of those rights, remain unchanged, and he cannot forego the duty of using all proper means to sustain and vindicate them.

The main cause of this difference of opinion is, the different appreciation of the proofs by which the charges against Her Majesty's Diplomatic Representatives and Consuls are sustained. Lord Clarendon asks this Government to regard the bare declarations of these officers as of sufficient weight to countervail the evidence against them. Their denials, as presented in his despatch of the 30th of April (and that is all which has been communicated to this Government on the subject), seem to be special, and do not traverse all the allegations against them. They deny that they have infringed our Neutrality Law by enlisting persons within the United States for the British service, or hiring or retaining persons to leave the United States for the purpose of being enlisted in that service.

The charges against them are much broader, and embrace the offence of violating the laws and sovereign rights of the United States, by setting in operation within our territory and conducting an extensive system of recruiting, which was not and could not be carried into effect without infringing our laws and rights; by employing numerous agents to engage persons, for pecuniary or other considerations, to leave the United States for the express purpose of entering into the British army; and by keeping these agents in this employment after it was well known that they were constantly infringing our laws. The denial of the implicated officers only covers a part of the delinquencies imputed to them, but, confining their exculpatory declaration to the simple charge of having violated the provisions of our Neutrality Act, it does not merit the consideration which Lord Clarendon has ascribed to it.

By adopting Lord Clarendon's construction of our Neutrality Law, contained in his note of the 16th of November, which renders it almost nugatory, and is contrary to that of this Government and of its judicial tribunals, these officers have not probably found much embarrassment in meeting the charges with a general denial; but giving to the declaration of Mr. Crampton and the Consuls all the consideration which can be fairly claimed for it under the circumstances of the case, it cannot counterbalance the unimpeached and well-sustained evidence which establishes the charges against these officers of having infringed the laws and sovereign rights of the United States.

Lord Clarendon's note to you of the 30th of April conveys the impression that the evidence by which these officers are implicated is derived from one or two witnesses, whose credibility has been assailed. This, however, is not a correct view of the facts. By the examination of my despatch of the 28th of December, it will be perceived that these witnesses were strongly corroborated, and that there

are proofs, wholly independent of their testimony, abundantly sufficient to establish the complicity of Mr. Crampton and the Consuls in the infringement of the laws and sovereign rights of the United States.

I trust it will not be questioned that it belongs exclusively to this Government and its judicial tribunals to give a construction to its Municipal Laws, and to determine what acts done within its jurisdiction are infringements of those laws. This is a matter which concerns its internal administration, and it cannot allow the agents of any foreign Power to controvert that construction, and justify their conduct by a different interpretation of our laws, which virtually renders them ineffective for the purposes intended. The Earl of Clarendon informs you, in his note of the 30th of April, that Mr. Crampton positively denies the charge of complicity in any of the acts of illegal enlistment in the United States, and that the three Consuls inculpated do the same. He assumes that the charge against them is sustained mainly by the evidence of two persons, Strobel and Hertz, whom he conceives to be unworthy of credit, and he appeals to the American Government to accept as conclusive the declarations of the Minister and Consuls.

I am instructed to say that these considerations do not relieve the President's mind of the unfavourable impressions produced by the conduct of those gentlemen in relation to foreign recruitment in the United States. It will be seen, by referring to my despatch of the 28th December, in which the grounds of charge against Mr. Crampton were fully stated, that the testimony of Strobel and Hertz was quite a secondary and unimportant part of the evidence adduced ; the charge being supported, independently of their testimony, by other witnesses, by original letters of Mr. Crampton and others, and by undenied and undeniable acts of Mr. Crampton. As to Strobel and Hertz, however, it may be observed, that the documents transmitted by Lord Clarendon as proving these persons unworthy of credit are entitled to but little weight, consisting as they do, chiefly, of *ex parte* affidavits, detailing matters mostly of mere hearsay ; and whatever may have been the character of those persons, it by no means follows that they did not testify to the truth.

They were agents selected and trusted by Mr. Crampton himself, and to them he committed most important concerns. Such an indorsement should countervail the impeachment of their veracity, founded on loose, hearsay reports. Nor does it seem to be a thing of much moment, in relation to the present question, that Strobel, in consequence of imputed misconduct, was dismissed from employment by the Lieutenant-Governor of Nova Scotia, and afterwards endeavoured to obtain money from Mr. Crampton. The fact remains, that he held a commission in the British Foreign Legion, and that, as it is clearly proved and not denied, he maintained, as recruiting officer, and for a considerable period of time, association, personally or by correspondence, with Mr. Crampton.

The employment of Strobel by Mr. Crampton, their long association in the joint work of recruiting in the United States for the Foreign Legion, the distinction of Her Majesty's commission of Captain in that corps conferred on Strobel, would seem, at least, to deprive Mr. Crampton of the right to deny his credibility as a witness.

But there is a larger and more comprehensive class of considerations applicable to this particular question. For a period of nearly five months, that is, from about the middle of March 1855 to the 5th of August, 1855, the peace and order of this country were disturbed, especially in the cities of Boston, New York, Philadelphia, and Cincinnati, by the unlawful acts of numerous persons engaged in raising recruits or in being recruited for the British Foreign Legion. They were supplied with ample funds by British Agents, and they obstinately resisted and set at naught all the efforts of the local authorities of the United States to put a stop to their proceedings, nor did they desist until they received orders to that effect from the British Government in the month of August.

The recruits thus unlawfully raised in the United States during all that time were conveyed by British agents to Halifax, and there enrolled in the Foreign Legion. All these acts, as well as their illegality, were notorious. Long before the trial of Hertz, in September, and of Wagner, in October, they must have been brought to the particular notice of Mr. Crampton, the British Consuls, and other Agents, by the preliminary judicial inquiries which took place both at New York and Philadelphia. In consequence of the steps to that

effect taken by me on the 22nd of March, the proper instructions were issued on the 23rd, and prosecutions commenced in Philadelphia on the 30th of March, and in New York on the 5th of April. As example of the character of these proceedings, their notoriety and their conclusive legal effect, what occurred in May deserves particular notice.

At New York, on the 15th of May, a number of persons, namely, Godfried Wachter, Wilhelm Schumacher, Julius Parkus, Oscar Cromrey, and Andrew Lutz, were examined before Commissioner Betts, on the charge of recruitment for the service of Great Britain. Eminent counsel were employed by the parties accused, who argued that no offence had been committed, because it did not appear that any valid contract of enlistment had been consummated; but this ground of defence was overruled by the Commissioner, who, though he discharged Wachter for defective evidence, committed Lutz, Schumacher, Cromrey, and Parkus.

At Philadelphia, on the 25th of May, three persons—Hertz, Perkins, and Bucknall—having been arrested on the charge of illegal recruiting in the service of Great Britain, applied to the Circuit Court of the United States by *habeas corpus*, to be discharged from custody. The presiding Judge, the Honourable John K. Kane, on examination of the evidence taken in the case before a Commissioner, found that the proofs were sufficient to bring the acts of Hertz and Perkins within the conditions of the law, but not so as to Bucknall; accordingly, the latter was discharged, but the two former were committed for trial.

Thus, so early as May, it was judicially shown that what was doing in this respect was unlawful. Mr. Crampton was acquainted with these proceedings, and was thus sufficiently admonished that the acts of recruitment carried on under his authority did, in fact, whatever may have been his intention, constitute a violation of the Municipal Law of the United States. This had been decided by the Courts of the United States, and was publicly and extensively made known. It is not controverted—indeed, it is admitted—that he had the recruiting business in his charge and under his control; yet he permitted it to be continued, although judicially determined to be unlawful, through the months of May, June, and July, into August.

Now this long series of acts, unlawful and otherwise prejudicial to the good name and the tranquillity of this country, were performed by persons who were liberally paid by British officers, and many of whom actually entered the military service of Great Britain. That was incontestably proved on the trial of Hertz and Wagner, by evidence which has not been and cannot be impeached; and although the evidence adduced on those trials does not need corroboration, still it may not be amiss to add that much other evidence to the same effect is in the possession of this Government, some of which is annexed to this despatch in the form of documents responsive to those accompanying the letter of the Earl of Clarendon.

Who is to be held accountable for these unlawful acts? Were they all performed by volunteer and irresponsible persons, as argued in the Earl of Clarendon's despatch of the 16th July? That cannot be admitted, for the conclusive reason that they received pay from British officers, and of course were employed by some responsible agents of the British Government. The Earl of Clarendon, in behalf of Her Majesty's Government, disclaims all intention to violate the laws, compromise the neutrality, or disregard the sovereignty of the United States, by enlisting troops within their territory. The President unreservedly accepts and is fully satisfied with this disclaimer. Of course the unlawful acts in question were not authorized by the British Government, but the fact is nevertheless well established that they were done, and done in the name and at the expense of the British Government.

Who, then, is responsible for those acts? Were there no direct proof, though there is much of that character, the inference would be irresistible, that, not being authorized by the British Government itself, they were the unauthorized acts of British agents in the United States. Such agents, having acted in wilful disregard of the orders of their Government in thus infringing our laws, may have failed to inform their Government that what they had undertaken to do could not be done without infringing those laws; or by mismanagement, indiscretion, or over zeal, they may have participated in such infringement, though well knowing it was contrary to the wishes and the express orders of their Government. However this may be, it is certain that agents existed, because their acts appear. Who were those agents? Of this we are not left in doubt.

In the documents on the subject recently laid before Parliament, it is distinctly stated that the enlistments in the United States did not stop until Mr. Crampton gave orders for their cessation on the 5th of August. He had power to stop the acts of enlistment. He knew the proceedings were, from commencement, exceedingly offensive to this Government, and that it was devoting its active energies to arrest them. He was bound to know—he could not but know—what was notorious to all the world, that, through the months of April, May, June, and July, the recruiting agents in various parts of the United States, and conspicuously in Boston, New York, Philadelphia, and Cincinnati, were keeping up a most unseemly contest with the law officers of the United States, and that at least as early as May, the illegality of the proceedings had been pronounced by the Federal Courts in New York and Philadelphia, and yet, notwithstanding this, he permitted the unlawful acts in question to go on without check until the month of August. For thus giving countenance to these illegal proceedings he is distinctly responsible.

But his accountability extends yet further, for the same documents show that the official suggestion to the British Government of the untoward scheme of obtaining recruits in the United States came from the correspondence of Mr. Crampton, and of the Consuls at New York, Philadelphia, and Cincinnati, and that to Mr. Crampton were the superintendence and execution of the scheme committed; and thus it is that he who directed had the power to stop the proceeding; and thus from early in March until August he is found busily occupied in superintending enlistments, partly in the United States, and partly in Canada and Nova Scotia, and in issuing instructions to the agents engaged in that enterprise.

It does not suffice for Mr. Crampton now to say that he did not intend to commit, or participate in the commission of, any infringement of the laws of the United States. He was the directing head of long-continued infringements of the law. It was under superior authority from him that acts of continuous violation of law were perpetrated by the inferior agents. Some of those agents are proved by his own letters to have held direct intercourse with him; and at every stage of inquiry in numerous cases investigated by the American Government, there is reference, by letter and oral declaration, to the general superintendence of Mr. Crampton. His moral and his legal responsibility are thus demonstrated. With full information of the stringency of the laws of the United States against foreign recruiting, with distinct perception of its being all but impossible to raise recruits here without infringing the laws, and with knowledge of the condemnatory judicial proceedings of April and May at New York and Philadelphia, he persisted in carrying on the scheme until August, when its obstinate prosecution had at length brought on a most unpleasant controversy between the United States and Great Britain; and it is not the least of the causes of complaint against Mr. Crampton, that by his acts of commission in this business, or in failing to advise his Government of the impracticability of the undertaking in which he was embarked, and the series of illegal acts which it involved, and in neglecting to observe the general orders of his Government and to stop the recruiting here the moment its illegality was pronounced by the proper legal authorities of the United States, he was recklessly endangering the harmony and peace of two great nations which, by the character of their commercial relations, and by other considerations, have the strongest possible inducements to cultivate reciprocal amity.

The foregoing considerations substantially apply to the conduct of the British Consuls at New York, Philadelphia, and Cincinnati. Though of a subordinate official character, they are not less responsible than Mr. Crampton. The continuous violation of the law proceeded within their respective Consulates, month after month, under their eyes, not only without any apparent effort on their part to stop it, but with more or less of their active participation therein. The Consulate at New York appears to have been the point at which the largest expenditures were made, and it is proved by documents herewith transmitted that payments at that Consular office to some of the recruiting agents continue to be made by the Secretary of the Consul, and in the Consul's presence, from time to time, down to the very beginning of January of the present year.

The President, as has already been stated by me, cannot admit the force of the objection now urged, of alleged want of respectability on the part of some of the witnesses by whom these facts were proved, and as to whom a prominent

cause of such alleged want of respectability seems to be the fact that their evidence has inculpated their accomplices in the violation of law. The testimony which most directly inculpates the British Consul at New York, as will be perceived by the inclosures herewith, is in the affidavits of the very persons relied on by Her Majesty's Government for proofs in this case, and whose depositions accompany Lord Clarendon's note to you of the 30th of April. The Earl of Clarendon perfectly well understands that, in Great Britain as well as in the United States, it would be impossible to administer penal justice without occasionally receiving the evidence of accomplices.

In Great Britain, not only is evidence of this class received continually in State trials, as well as in inferior matters, but rewards and other special inducements are held out to such witnesses by not a few provisions of Acts of Parliament. The competency of such persons as witnesses in a given case, and their credibility, are in both countries questions upon which the court and jury, in their respective spheres of jurisdiction, ultimately pass. In the present case conclusions have been established on documentary proofs, and other unimpeachable evidence, by proceedings before the proper tribunals of the United States, by the verdicts of juries, and by the rulings of judges, which must be held as final in the estimation of the President.

The Earl of Clarendon suggests, as a consideration pertinent to this question, that the Minister and Consuls had no means or opportunity of rebutting the charges thus indirectly brought against them in the trial of the inferior recruiting agents.

In regard to the Consuls, the Earl of Clarendon errs in supposing that they had not full means and opportunity, if they saw fit, to appear and to confront and contradict any accusing witnesses. They were not allowed to interfere in the trials by mere letters written for the occasion, which, indeed, they could not have done lawfully had there been no such prohibition; but, if conscious of their own innocence, and that of the parties on trial, and that their own acts would bear examination, it was alike their duty and their right to appear and say so on oath, and to contradict by their testimony whatever was alleged against British officers or agents if known to them to be untrue.

Nor is it any just cause of complaint that evidence was received upon these trials impugning the acts of Mr. Crampton. It was in the due course of proceedings required to be shown, as against the parties on trial, that the recruitments in which they were engaged were for the service of a foreign Government. Mr. Crampton was himself privileged from trial for a violation of the Municipal Law, but the persons whom he employed were not for that cause to go unpunished—nor was the administration of penal justice to be indefinitely suspended on account of his position and the diplomatic immunities which that conferred; on the contrary, it was peculiarly proper that the facts by which he was implicated, but for which he could not be tried, should be verified in due form of law, for the information of his own Government, as well as that of the United States.

The Earl of Clarendon remarks in his letter of the 30th of April, that—"The intentions of the British Government, and the arrangements made to carry those intentions into execution, were not concealed from the Government of the United States; those intentions and arrangements were frankly stated by Mr. Crampton to Mr. Marcy in a conversation on the 22nd of March, 1855, and the only observations which Mr. Marcy made in reply were that the Neutrality Laws of the United States would be rigidly enforced, but that any number of persons who desired it might leave the United States and get enlisted in any foreign service."

It is incumbent on me to say, that in this respect the Earl of Clarendon labours under serious misapprehension, which, while it serves in part to explain how it happened that the enlistments went on for so many months in a manner contrary to the intentions and express orders of the British Government, also serves to increase the weight of Mr. Crampton's responsibility in this respect. I repeat now, with entire consciousness of its accuracy, what I stated in my letter of the 28th of December last, that at that interview on the 22nd of March—the only one I ever had with Mr. Crampton, as he admits, in which the recruitment business was alluded to—"he (Mr. Crampton) had satisfied me that his Government had no connection with it, and was in no way responsible for what was doing in the United States to raise recruits for the British army." "But I am quite certain that on no occasion has he intimated to me that the British

Government or any of its officers was, or had been, in any way concerned in sending agents into the United States to recruit therein, or to use any inducements for that purpose. Nor did he ever notify me that he was taking, or intended to take, any part in furthering such proceedings. Such a communication, timely made, would probably have arrested the mischief at its commencement. If he had then apprised me of the system of recruiting which had at that time been already arranged and put in operation within the United States by British agents, and under his superintending direction, he would have been promptly notified, in the most positive terms, that such acts were contrary to the Municipal Law, incompatible with the neutral policy of the country, a violation of its national sovereignty, and especially exceptionable in the person of the Representative of any foreign Government. Mr. Crampton admits that I specially warned him against the violation of our Neutrality Laws, but blames me now for not then stating to him that my construction of that Law differed from his own; but no such difference of opinion was then developed.

Mr. Crampton on that occasion manifested a coincidence in the opinion as to the provisions of that law which I then held and have since fully disclosed. He called upon me to show a letter which he had written on that day to the Consul at New York, "disapproving the proceedings of a Mr. Angus M'Donald, because I [he] thought those proceedings would or might be taken to constitute a violation of the Act of 1818"—the Neutrality Law of the United States. What were the proceedings of Mr. M'Donald which Mr. Crampton thought might constitute a violation of our neutrality? The simple issuing of a handbill, specifying the terms on which recruits would be received at Halifax into the Queen's service.

This opinion of Mr. Crampton ascribes as much stringency to our neutrality Acts as has ever been claimed for them by the Government or Courts of the United States. I had then no suspicion, nor did Mr. Crampton give me any cause to suspect, that he was acting or intended to act upon an interpretation of that law which would justify the act of M'Donald, which he then condemned, and make that law but little better than a dead letter. I could not but suppose that he viewed it in the same light as Lord Clarendon did when he wrote his despatch to Mr. Crampton of the 12th of April thereafter, in which his Lordship declared it to be "not only very just, but very stringent."

To show that I was not mistaken in this respect, I quote a passage from a letter of Mr. Crampton, dated 11th of March, to Sir G. le Marchant:—"Any advance of money by Her Majesty's Agents or others in the United States would constitute an infraction of the Neutrality Law." The depositions which accompany this despatch, made by some of the same persons who have furnished the British Government with affidavits to impeach Strobel and Hertz, prove conclusively that Mr. Crampton did disburse various sums of money to agents employed in recruiting within the United States.

It was, indeed, apprehended by me at that time that violations of that law would ensue. It could not fail to be seen that any organised scheme of a foreign Government to draw recruits from the United States, though by mere invitation, would necessarily tend to and result in violations of the Municipal Law. So decided was my belief in this respect, that measures had already been taken by me, in behalf of this Government, as it happened, upon the very day of the interview with Mr. Crampton, to institute prosecutions against persons engaged in this business in New York and Philadelphia, and I then notified Mr. Crampton of that fact, as he expressly admits in the report of that interview made to his Government.

An attempt is made to deduce an excuse for Mr. Crampton's course in the business of recruiting in this country, from the alleged fact that he communicated to me on that occasion the arrangements which had been made for that purpose, and that I did not disapprove of them otherwise than by insisting upon the observance of the Neutrality Law of the United States. This allegation is hardly consistent with Mr. Crampton's own statement of what then passed. In the defence of his conduct recently sent by him to his Government, he makes admissions inconsistent with the allegations that there was no concealment on his part, and that the recruiting arrangements were communicated to me. He says that:—

"It is perfectly true that I did not enter into any details of the means which were to be adopted by Her Majesty's Government to render available the services

of those who tendered them to us in such numbers. There seemed to be obvious reasons for abstaining from this, even if it had occurred to me. I should have been unwilling to do anything which might have borne the appearance of engaging Mr. Marcy in any expression of favour or approbation of a plan favouring the interest of one of the parties in the present war. All I could desire on his part was neutrality and impartiality."

His reasons for withholding from me the details of the enlistment system—the most important part of it for this Government—are not satisfactory. If Mr. Crampton believed that what he was doing, or intended to do, in the way of recruiting was right, he could have had no reluctance to communicate it to me, for his instructions required him to make that disclosure. Acting in due frankness, and with a proper regard for the dictates of international comity, Mr. Crampton should, it would seem, have disclosed to me all the measures intended to be pursued within the United States by the agents of his Government, including himself, in execution of the Act of Parliament for raising the Foreign Legion. Nay, he was expressly commanded by his Government to practise no concealment with the American Government on the subject. If he had obeyed these orders, all misunderstanding between the two Governments would have been prevented.

Mr. Crampton was the more imperatively called upon to make full explanations on the subject, not only because he was commanded by his Government so to do, but for the further reason that, immediately after the breaking out of the war between Great Britain and France on the one hand, and Russia on the other, he had, by an official note addressed to me, invoked the efforts of this Government to enforce upon the inhabitants of the country (citizens or others), the necessity of observing the strictest neutrality towards the belligerent parties, and especially to enjoin upon them to abstain from taking part in armaments for the service of Russia or in "any other measure opposed to the duties of a strict neutrality." To this application the Undersigned, by express direction of the President, replied, declaring that the United States, "while claiming the full enjoyment of their rights as a neutral Power, will observe the strictest neutrality towards each and all the belligerents." Reference was made to the severe restrictions imposed by law not only upon citizens of the United States, but upon all persons resident within its territory, prohibiting the "enlisting men therein for the purpose of taking a part in any foreign war." It was added "that the President did not apprehend any attempt to violate the laws, but should his just expectation in this respect be disappointed, he will not fail in his duty to use all the power with which he is invested to enforce obedience to them."

In view of this formal and solemn appeal by Mr. Crampton to the American Government, and of the assurance he received of its determination to maintain strict neutrality, it was not for a moment suspected that Mr. Crampton could misunderstand this purpose, or believe that he would be permitted to set on foot and execute, for a period of five consecutive months, a systematic scheme to obtain military recruits for the British service in the United States.

That Mr. Crampton did enter most deeply into this scheme is proved by the evidence already submitted to Her Majesty's Government, but is still more conclusively established by the additional proofs which accompany this despatch. Whatever detraction from the value of the testimony against Mr. Crampton may result from the attempt to discredit Strobel and Hertz, is much more than made up by the additional proofs now adduced. This body of strong cumulative evidence confirms the President's former conclusion as to the complicity of Mr. Crampton and the British Consuls at New York, Philadelphia, and Cincinnati, in the illegal enterprise of recruiting soldiers for the British army within the United States, and the President does not doubt that when this new evidence shall be brought under the consideration of Her Majesty's Government it will no longer dissent from this conclusion.

The gratification which the President feels at the satisfactory settlement of the Recruiting Question, in so far as respects the action of the British Government itself, has induced him to examine the case again with the view to remove, if possible, from his mind the personal objections against Her Majesty's Minister and Consuls. This examination has not produced that effect; but, on the contrary, has strengthened his conviction that the interests of both Governments require that those persons should cease to hold their present official positions in

the United States. He sincerely regrets that Her Majesty's Government has not been able to take the same view of the case, and to comply with his request for their recall; but it has not consented to do so.

If, in the earnest desire to act with all possible courtesy towards Her Majesty's Government, the President could have suspended his determination in the case, in order to submit the new testimony which he is confident would have been found sufficient to induce compliance with his request for the recall of the British Minister, he is precluded from any such thought of delay by the exceptional character of the despatches of that gentleman, copies of which, having been recently laid before Parliament, have thus come to the knowledge of this Government, and which are of a tenour to render further intercourse between the two Governments through that Minister alike unpleasant and detrimental to their good understanding. The President has, therefore, been constrained by consideration of the best interests of both countries reluctantly to have recourse to the only remaining means of removing, without delay, these very unacceptable officers from the connection they now have with this Government.

This course has been deemed necessary on account of their unfitness for the positions they hold, arising from the very active part they have taken in getting up and carrying out the system of recruiting which has been attended with numerous infractions of our laws, which has disturbed our internal tranquillity, and endangered our peaceful relations to a nation with which this Government is most anxious to maintain cordial friendship and intimate commercial and social intercourse. He has therefore determined to send to Mr. Crampton, Her Majesty's Diplomatic Representative, his passport; and to revoke the exequaturs of Mr. Mathew, Mr. Barclay, and Mr. Rowcroft, the British Consuls at Philadelphia, New York, and Cincinnati.

George M. Dallas,
&c. &c. &c. London.

I am, &c.
(Signed) W. L. MARCY.

List of accompanying Papers.

Proceedings before Commissioner Brigham.

Proceedings before Commissioner Betts.

Affidavits of Louis Celage, Ignatius Majewski, Anthony Bukaty, and Leon Sierawski.

Affidavits of Julius Parkus, Oscar Cromrey, and William Schumacher.

Affidavit of William Schumacher, March 12, 1856.

Affidavit of Oscar Cromrey, March 12, 1856.

Affidavit of Louis Kazinski.

Affidavits of Oscar Cromrey and William Schumacher, May 23, 1856.

Affidavit of Morris Kieckbach, June 18, 1855.

United States' Commissioner's Office, before Joseph Bridgham, Esq.

The United States v. Hans P. Jorgensen, Frederick C. M. Carstensen, and Augustus M. Thorman.	}	J. B. John McKeon. Enlisting in foreign service.
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W. R. Beebe.

July 30, 1855.—Mr. Beebe appears, and waives the production of the warrant against Jorgensen, and consents to proceed against the three defendants above named.

Anthony Rosenbaum, sworn.—I knew Carstensen; have known him for three months. I have had something to do with hiring men to go to Halifax. I received a letter from Mr. Schumacher to Carstensen; I did not read the letter; Mr. C. read the letter in my presence; he did not tell me the contents, but

several lines of it, in which Mr. Schumacher said he (Carstensen) should receive me well; that he should have me paid on the same day of my arrival.¹² I told him that Mr. Schumacher gave that letter as an introduction to Mr. Carstensen; that I had to deliver my men which I brought over to Mr. Carstensen, who would pay me four dollars a-head for them. Mr. Carstensen said he was glad that we had brought over such a good number; that they should be shipped for Halifax the same day; and that I should be paid in a few hours. I went with Mr. Thorman to Mr. Carstensen to see Carstensen. Mr. Carstensen then got up and went with us to the office of Sprague, Soulé, and Co., where we left the men. Mr. Carstensen said he was the only authorized person in Boston to ship the men for the Governor in Halifax; he said that he was a Captain in the English Foreign Legion, and showed me a written authority (telegraphic despatch), which said nothing but "apply to Clark and Jones; all right." Mr. Carstensen said it was an answer to a despatch he had sent up to Halifax to Sir Gaspard le Marchant; that this was in consequence of a dispute with Mr. Keitchbech, who himself pretended to be the only authorized agent to ship men. These men, he said, were for the Governor of Halifax, for the men to enlist in the English Foreign Legion. This occurred at Boston. (Counsel for the defendants objects to all transactions which occurred at Boston.)

Carstensen and I then went to the office of Sprague, Soulé, and Co., and counted the men: there were twenty-six men, all brought by Thorman, Weichen, and myself. He then spoke to one of the firm—I don't know which—and afterwards told me that these could be shipped at once in a vessel then lying at T Wharf, called the "America." All the men then left on board the vessel. I saw the men on board, and Carstensen, Thorman, and Weichen went on board with them. Mr. Carstensen then spoke to the captain of the vessel, and asked him whether he would make any arrangements to supply them with victuals for the passage. We then waited on the wharf for nearly three hours for the vessel's departure. Before she left, a clerk for Sprague, Soulé, and Co., went on board with Carstensen, Thorman, Weichen, and myself, again to count the men and have their names put down on a list. Then Mr. Keitchbech came up and claimed all the men, telling me that Mr. Carstensen had no authority (this was in Carstensen's presence) to pay me one dollar. I knew Carstensen by the name of "Milford" also. Then Carstensen took Keitchbech aside, and, after a conversation of about half-an-hour, Keitchbech came up to me, telling me that he was mistaken, and that he had now himself seen the authority of Carstensen. Carstensen then told me we had better leave the place, because one of the men which was shipped was intoxicated and made a great noise, and would be very likely to draw the attention of the police towards us. At that moment the vessel started, and when it was near out of sight we all went back to the office of Sprague, Soulé, and Co. Mr. Carstensen requested me to assist him (Mr. Thorman was with him at the time) in writing receipts for the agents—Thorman, Weichen, and myself as agents—for bringing men from New York to be shipped in Boston for Halifax. He also wrote three lists of all the men. I inquired of Mr. Carstensen what these three lists were for. He said one had to remain with the firm of Sprague, Soulé, and Co., another to be sent to the Governor at Halifax, and the third was for himself. He waited for another hour, and then Mr. Carstensen paid me 48 dollars for twelve men, for which I had to sign a receipt. Then Mr. Carstensen, Thorman, Weichen, and myself, and Keitchbech, all went to Kipp's boarding-house, in Washington-street, and had champagne, &c., which was paid for by Mr. Carstensen. We then all went for the railroad dépôt, accompanied by Carstensen and Keitchbech. Mr. Carstensen told me that Mr. Keitchbech was working for the Polish officer's regiment in Halifax; that he (Carstensen) worked for the German-English Foreign Legion; that he would get me a commission in the Legion if I would only work for him. He then gave me a letter unsealed to Major Wise, in New York.

(Adjourned to 10 o'clock A.M. to-morrow.)

July 31, 1855.—Examination of *Anthony Rosenbaum* continued.—We had half-an-hour left before the train started, and we walked back again to Mr. Carstensen's residence. Mrs. Carstensen there informed us that he had received a telegraphic despatch from New York, informing him that Schumacher,

Cromley, and Parker, had been arrested for enlisting men for Halifax. We then went back to the dépôt, where Mr. Carstensen handed me another letter to Mr. Schumacher. He told me again to stick to his party, and only be active in New York for Schumacher and Cromley, who, in conversation with him, wanted to send as many men as they could possibly get, to show that they could do more than the Polish party. We then left for New York. Thorman was by all the time.

When I came to New York, I at first went to Eldridge-street Gaol, delivered my letters to Mr. Schumacher, who asked me whether Carstensen had paid me for the men he sent him by me. He requested me to call on Major Weiss, and to tell him that they wanted to see him, to get out on their bail. I told Mr. Schumacher that I had a letter myself to Major Weiss, from Mr. Carstensen, but that I did not know his address. He referred me to the English Consul, who would furnish me with the address. I went to the English Consul.

The District Attorney offers to show, by conversation at the British Consul's office with Mr. Stanley, the connection of Stanley, Schumacher, Cromley, and Carstensen, with the enlisting, and hiring, and retaining of men in the city of New York.

The counsel for the defendants objects that nothing that transpired at the Consul's office can be used to charge Carstensen at Boston.

(Adjourned to Thursday at 10 o'clock A.M.)

Thursday, August 2, 1855.—Examination of Rosenbaum continued.

Submitted.

August 6, 1855.—Discharged.

Charge of Enlisting for the Crimea.—Complaint dismissed.

The United States v. Carstensen and others.

August 2, 1855.—The State's evidence, Anthony Rosenbaum, was cross-examined at considerable length, and availed himself of the privilege of declining to answer certain questions. He said he had been twice arrested before he communicated the facts to the District Attorney; he was under arrest at the time he made the communication; had been in prison about fourteen days; had no written contract with the men he took to Boston; gave them no money. I am a native of Hamburg. I am in this country about sixteen months; went from Hamburg to England, and then came to New York. I was in England about three years; I was in a great many places in England. I was an artist, and painted likenesses. I was in the commission business in German goods.

Q. Were you not engaged in smuggling in England?—A. I decline to answer. I was not in prison in England for that offence.

Q. Did you not run away from England to avoid arrest?—A. I object to that. I never was engaged here in the business of smuggling; I was the manager of business for Baldwin and Co., Philadelphia, jewellers.

Q. Did you not, as their manager in importing, defraud the Government?—A. I refuse to answer.

Q. Who was Mr. Baldwin?—A. A gentleman of my acquaintance.

Q. Were not you Mr. Baldwin?—A. I have answered that question before. I cannot be acquainted with myself. I never was in the employment of any emigrant forwarding-house here.

Q. What business have you been in since you came from Philadelphia besides engaging men for the Crimea?—A. I refuse to answer. I know the premises 75, Bowery; I never occupied any part of them; I have taken meals there, and paid for them.

Q. Did you ever receive any money that was paid there for the business of the house?—A. No; I never was engaged in the business of keeping girls, or a house of prostitution there, nor at any other place in the city of New York.

Q. Have you ever been engaged in a gambling-house here?—A. I refuse to answer. I know the gentleman present (Mr. Brendt); I never was in partnership with him in the house 75, Bowery.

I, Joseph Bridgham, United States' Commissioner for the Southern District of New York, do hereby certify that the foregoing is a true copy of a portion of the testimony taken before me in the above matter. The notes of the continued examination and cross-examination of Rosenbaum on the 2nd day of August, 1855, being mislaid, are not included in the foregoing written copy, but the substance of the same is contained in the accompanying slip from the "New York Herald."

In witness whereof, I have hereunto subscribed my name and affixed my seal, this 30th day of November, 1855.

(Signed) JOSEPH BRIDGHAM,
United States' Commissioner, Southern District of New York,
Second Circuit.

Proceedings before Commissioner Betts.

The United States *v.* Godfried Wachter.—G. F. Betts, Commissioner:
Enlisting men for the British Army.

May 15, 1855.—District Attorneys, Beebe and Carpenter.

Adolphe Vischoff.—Know Wachter; he kept his place 127, Grand. I was there last Monday week; asked him if he could not give me work; he said "yes;" he had one place to go as farmer from here to Boston, and a place for a foundry. Then he asked me if I would like to go as a soldier from here to Halifax; when I was in Halifax I would get 30 dollars pocket money, and 8 dollars a-month for being a soldier. Then he told me to come back to Grand-street that same day, and he would tell me where the vessel was. He told me then where the vessel was, Pier 2, North river. I was to go from here to Boston, and thence to Halifax in that vessel. Told him that day I couldn't go; would come Tuesday, and had a friend who would come with me; then he told me if I knew more to bring them in. I was to be a soldier, when I got to Halifax, in the English army.

The United States *v.* Wilhelm Schumacher.—Enlisting men for the British service.

The United States *v.* Julius Parkus,—May 15, 1855.—G. F. B.

The United States *v.* Oscar Cromey.

District Attorney calls—

Peter Oswald.—Know Schumacher; was there in the morning, in Chatham-street, No. 53, May 3rd instant, about 8 o'clock; Mr. Thomson, and Mr. Wertz, and Mr. Werner, were talking there about engaging men—some for labouring, and some for the Crimea. A young man was there who they said they had engaged as a machinist to go in a machine-shop near Boston. They wanted me to find out who were enlisting men for the Crimea, and asked me if I would help. I said I would, and went to 130, Liberty-street; there was there, down stairs, a paper man wanted. I then went up stairs and saw Schumacher and Cromey (didn't know his name). A German Canadian, named Harkey, was sitting there; another young fellow—I don't know his name—he used once to be a bar-keeper. I asked: "Is this the place I can get the work?" Schumacher told me yes. I told him I was six months in this country, and I had nothing to do yet, and I was willing to do anything they could give me. Then he said he had no work, but if I would like to go to the Crimea, he would take me as a soldier in the English army; that he would take us from here to Boston; the same day send me to Halifax; may-be we would stay there a couple of months, and

then we go off to the Crimea. Cromey said I couldn't do anything better than go there; so Harkey said; then I said, "I will go." Then he told me to be there at half-past 3; then I came to the district attorney's office; then I went there at half-past 3, in bar-room; ten or twelve were there, all going along, all talked about killing Russians. Then I went to the boat with them—it was then past 4—the boat going to Boston, Pier No. 2. Schumacher went along with us. The first time I was there, they said I should get 30 dollars as soon as I got to Halifax, and 8 dollars a month. I was to be a lieutenant, as I had been in the Prussian service.

Cross-examination.—Am a carver; have been six years in this country, all the time in New York, and twenty-four years old; worked last for Haslow; and was first in this building the third of this month. Had been here two days when I went to Chatham-street. Knew Wertz (he keeps the house), a German. Nobody had employed them to catch them. Johnson went over to 131, Liberty-street; remained outside; went in after. I didn't intend to go to the Crimea. I got no money; put my name down on a paper; they had a list; saw nothing on it but names. I didn't write it on the list; I wrote it on a piece of paper (nothing else on the paper) so that he might see how it was spelt. There was a table in the room; it was a private room in a hotel.

Q.—How much was you to get for finding?

A.—I decline to answer that question. I consider it insulting. I went there because I didn't like to see them enlisting men in that way. I was in that room about ten minutes. Johnson didn't come into the room whilst I was there. I went back then to 53, Chatham-street; nobody went back with me. Johnson went in. Found some men at 53, Chatham-street, and some strange ones; stayed there about two hours; then Wertz says, "Come along, we will go to the City Hall." Went, I think, to Mayor's office; then here. Wertz, Johnson, Wener, and myself, and Hochmund; saw Niven when I came here. McKeon made an affidavit, swore to it; all made affidavits.

They told me to go back there at half-past three. Officers were to be there on the boat. I carried a carpet-bag there; got it at Wertz's house; it was not mine. I did not go up in the office again. Met Schumacher just inside. He says, "We have got about three-quarters of an hour;" if any body came to ask me where we go, not to answer them. He was to go to Boston with us.

I signed nothing; nothing bound me to go. He didn't tell me that if, when I got to Halifax, I didn't like it, I could come back; he said nothing about coming back.

[Adjourned to Thursday, 12 A.M.]

Cross-examination resumed.—I never was there but once. Schumacher didn't tell me his name. I didn't know his name when I made the affidavit. I said nothing about killing Russians at the porter-house. I talked in German when I was in the room. Am a Prussian—not a citizen of the United States; declared my intention five years ago. I was a soldier, sergeant, two and a half years; ran away; never been arrested in this country. Don't know Stoekel, a Russian Consul. Schumacher didn't show me any power he had to hire me. He said he was going along. He said he would give me 30 dollars, and 8 dollars a month; "I will give it," not "you will get it:" that he was to pay it; I knew nothing about government. It is none of your business whether I am to be paid, if the accused are convicted.

Redir.—I went with S. on board the boat. S. had tickets for us all in his hands; he didn't give me a ticket; he told me to stay and see that none of the party went off the boat. I am not to get any money for convicting these men.

Re-cross-examined.—I saw S. buy tickets on board, at the office.

John Cowen.—Am policeman, stationed on North River, between Liberty, Battery-place, and West; that includes the steamboat to Boston. Saw accused once. First time I saw the three together was here after the arrest. Saw Schumacher on Dock-pier 2 once—the third of this month. One of the marshals requested me to come and assist him. After I got there he pointed S. out to me, and wanted me to take charge of him. About half-past four o'clock (steamboat was about to start) I told S. I wanted him to come with me. He asked me where I wanted him to go, and whether it was the chief of police who

had him arrested. I told him I supposed he knew who had him arrested : that he was arrested by one of the United States' marshals. He asked me what for? I told him for inducing men to go from here to Nova Scotia to join the Crimean expedition. He then told me he wanted to see a man that was on the dock to get his money back for the tickets. I told him that I could not wait any longer—that I had to go ; he came along up West-street ; asked me if I wouldn't see and get the money returned for those tickets, and handed me twelve tickets voluntarily himself. I gave them to Joachinsen ; eleven second class, and one first class.

John Jansen.—Know Cromley and Schumacher. There was an advertisement in the newspaper—wanted twenty or thirty young men, (in the German newspaper) at 130, Liberty-street ; went there ; met S. ; asked him if he wanted young men ; he said yes, and referred me to Cromley. He was in the office ; I asked him, do you want young men ? he said yes. I asked him, "where do you send them ?" He said, in the country. I asked in what place ? He said from here to Boston ; from there to Halifax, as soldiers ; from there to the Crimea to the English army. I said I didn't want to go ; I did nothing else. I saw them on the dock when arrested.

Ferdinand Wertz.—Know all three of the accused. I first saw Parkinson at Pier 2 ; asked him where the people were going to, who were engaged for machinists ; he said, to Boston. I asked him why the people were to come at 4 o'clock, as the boat didn't go till 5 ? He said it was better to have them there. At about a quarter before 5 he took the men from Pier 2 to 3—about ten men.

On the 3rd Mr. Oswald was engaged ; I wanted to see him ; I entered in the bar-room, 130, Liberty-street ; Schumacher came in. The hotel-keeper asked me if I wanted to go to the Crimea ; I asked him for what ; he said, "These people are all going there that are in the bar-room."

That afternoon I went with the marshals down on the pier ; saw S. talking with Oswald, and when they were arrested.

In the bar-room at Liberty-street, men were drunk, and squaring-off, and saying, we are going to fight the Russians. S. came down with that troop, and Oswald too.

Cross-examined.—I never heard either of accused engage any man to the Crimea. I kept the place 53, Chatham.

[Adjourned to Tuesday, 9 A.M.]

May 23, 12 M.—James Hann, an acquaintance of mine, introduced me to Mr. Parkus, at 26 (I believe), Mott-street, at Harns' boarding-house, telling him that perhaps, on getting acquaintance, I should have a mind to join their corps. Hereupon he conducted us to his (Parkus') private room upstairs, asking me there whether I had been a soldier before. I said, "Yes ; my degree was a lieutenant in the Prussian militia (Landwehr)." "Well, Sir, if so, you may depend to be at least a serjeant in the British army ; then you get for bounty 7*l.* or 8*l.* at Halifax." I told him I would take this into consideration. "If you prefer to be an agent, we get 3 dollars for each man at Boston. You may deliver them yourself, or leave them to us. Come this evening to Pier 3 ; I want to introduce you to one Major Weiss." I said, "I will see ; when will I want you to-morrow ?" He said, "You can't find me here, I move every other day ; you will find me at Lewis-street, in the basement." I forget the number. He showed me a document in proof of his having been an officer in Germany.

Cross-examined.—I have been here about eight years ; have not become a citizen.

Redir.—I know nothing about Schumacher or Cromey.

Louis Bamberger, sworn as interpreter.

Augustus Werner (sworn through Bamberger).—Know Parkus—the other two only by sight. I read, May 1st, in German newspaper, called the "Staats Zeitung," that, at 118, Grand-street, mechanics were wanted. I went there ; found a young gentleman, whom I asked if he wanted engineers ; he replied, yes. Wanted to know if Werner had money to carry him to Boston ; I said the advertisement stated that passages were free. He then said if I would

engage to go to Boston, and be at Pier 2 that afternoon, he would forward me there free of expense. I went at 4 o'clock to Pier 2, N. R., in company with Wertz (the man at Grand-street is not here). When we came to Pier 2, found there several others—about ten. Parkus came and took them to Pier No. 3, where they went on board the vessel; a third party joined them there—a tall gentleman, whose name I believe to be Weiss. Mr. Jansen, whom I lived with, came on board to wish me good-bye. He asked me where the foreman was? I pointed out to Jansen the man that engaged me at 118, Grand-street. Parkus said nothing. Next day I went to see Parkus, 26, Mott-street, with another German, who asked for employment. Parkus said that he wanted men to enlist in the English service, paying 30 dollars bounty, to go to Boston and Halifax, and 8 dollars a-month. I don't know where I was to get the 30 dollars. Parkus inquired of the other man if he couldn't make up his mind to join right away—also putting the same question to Werner. I said no, and left the office.

Cross-examined.—I am an engineer; was born in Germany; have been here since December 3; am not a citizen of the United States.

Prosecution rests.

[Adjourned to Friday, 10 o'clock, to sum up.]

United States *v.* Andrew Lutz.—Same complaint.

Louis Bamberger, sworn as interpreter.

Gustave Michael.—Know Andrew Lutz. I read in newspaper that men were wanted at 25, Mercer; when I came there, the landlord told me that there had been a man living in his house that had been enlisting men for the Crimea, which he wouldn't have in his house, and the man moved; but if he wanted to be engaged, to go to 91, Chatham, where Lutz was residing. I went there, and found there defendant. I told him I was sent from 25, Mercer; asked him if he was engaging people for the Crimea? He said, yes. (This was May 9th.) I asked him, "under what condition?" He replied that I would receive 30 dollars at Halifax, and, after being a soldier, 8 dollars a-month. He said if I had any friends that wanted to go, to bring them. He afterwards told me to be back at 3 to 3½, as he wanted to take me to the boat. I did not return the same day, but the next; brought Vischoff with me. I presented him to Lutz. He asked him if he would like to join to go along? He said, yes. Lutz told him he was to go to Boston, from there to Halifax; that probably he would remain at Halifax from eight to ten months; that he should return next Monday at 3 o'clock; that we should receive tickets to forward us. That was all.

Cross-examination.—I lived at Duane-street; no parents here; have been here since last November; going on 18; I didn't intend to go to the Crimea; I went there to be engaged, because I was sent; I had no idea of becoming a soldier; I went there to catch Lutz; Vischoff told me he had been to Wachter before; Nivens sent me to Lutz (the Deputy Marshal); I didn't sign any paper, nor get any money; I was in the Toombs Monday.

To Commissioner.—I promised Lutz to go to Halifax; so also did Vischoff.

Adolphe Vischoff, sworn.

(Adjourned to Monday, 9th.)

May 28.—Mr. Beebe moves to discharge the men on ground that no sufficient evidence exists to commit them.

Mr. Joachinsen argues, (iii Statute at Large, p. 448, and 2nd Act, 1818,) state of war in Europe notorious: to be presumed that allies are recruiting in neighbouring Colonies. Defendants retained men not to enlist, but to go to Halifax to be enlisted; defendants came from Boston; provided persons with tickets to Boston; wanted persons to go to Halifax, and get there 30 dollars bounty, and 8 dollars a-month. Supposing that men retained to go had no intention to go; this was not necessary any more than doing the latter. Deputy came here to take away men; they retained the men; and the intent was, on their part, that the men retained should go into the service of the Queen of

Great Britain, and the crime was then consummated. Men in Philadelphia have been held.

Mr. Beebe argues, 1. Our rights, as citizens, to leave this country at our pleasure—free press—citizens have always left to enlist under foreign Princes with consent of our Government. I can go to Halifax, and you can ask me to go. Stronger right in case of an alien to leave the country. It not being an expedition set on foot here—object of Statute, that no foreign Government, by its authorized agents, can open a recruiting office in this country, or hire, by its agents, its citizens here to go and serve its own. Intent is not punishable; the essence of the crime is the contract consummated; if not interrupted, would make the party a soldier of the foreign Government. “*Enter*,” applies to naval service. No evidence as to Cromly, except that Oswald found him in the room, and said, “I think it is the best thing you can do.”

In Wachter’s case, he didn’t promise to go. In Parkus’s, they saw him in Mott-street; he asked him if he wouldn’t go, and said “No.”

Schumacher made an arrangement with Oswald to go; he came down with a carpet-bag to steam-boat. But if this was not to eventuate in his becoming a soldier, in absence of any interference, there was no offence.

Mr. Joachinsen replies: Act makes an offence in person who hires or retains, and in the person who is hired; and another in hiring with intent to go. Both persons need not have the intent; the Statute is indisjunctive.

Authority inferred from the acts of defendants; no foreign Government can authorize to violate our laws.

Contract would be illegal; there is no such thing as a valid contract here to enlist in another country. Question of contract must therefore be thrown out.

Complaint discharged against Wachter; sustained against Lutz, Schumacher, Cromley, and Parkus.

I, George F. Betts, United States’ Commissioner for the Southern District of New York, second circuit, do hereby certify that the foregoing is a true copy of the “Minutes of Testimony” taken before me in the above matter.

In witness whereof, I have hereunto subscribed my name and affixed my seal, this 28th day of November, in the year of Our Lord 1855.

(Signed)

GEORGE F. BETTS,

United States’ Commissioner.

United States of America, Southern District of New York.

Louis Celagi, being duly sworn, says: That on the 28th of April, 1855, he was engaged by Smolenski to serve as a Lieutenant in the regiment he was then raising at Halifax; that deponent received orders from said Smolenski to draw on Messrs. Clarke, Jones, and Co., of Boston, for the expenses of forwarding recruits enlisted in the United States to Halifax; during the time deponent was stationed in Boston, from the 28th of April to the 16th of July, 1855, deponent forwarded over 200 men from Boston to Halifax; these men were enlisted in the United States, and were kept in Boston until conveyances were found to convey them from thence to Halifax; their board was paid by me; Rosenbaum was one of the recruiting agents stationed in New York. The agents received from me 4 dollars for each man. I acted as Lieutenant and Secretary to said Smolenski, who is now in Europe. The latest intelligence I had from him is the annexed letter to Mr. Schwerrer, one of the boarding-house keepers in Boston. Smolenski has taken all his original papers with him. As such secretary, I have read all his correspondence. I know the handwriting of Mr. Crampton, the British Minister; also the handwriting of the Honourable Joseph Howe. About the 26th of June, 1855, Smolenski left the city of New York for Washington, and there met Colonel Ansell, of 76th Regiment of Infantry; and, in the presence of Crampton, said Ansell and Smolenski made an agreement which I saw and copied. Mr. Crampton’s name appeared as a party to it, and the substance of which is as follows:—That Smolenski was to raise a regiment of 1,000 men, being 10 companies of 100 men each, to be raised in 10 consecutive months, and for each company he was to receive the sum of 2,000 dollars for each Company; said Smolenski was to be Colonel, and have the appointment of the regimental

officers. The said agreement also contained a clause that the officers appointed by Smolenski were to receive the sum of 75 dollars per month, and to remain in the United States to recruit men. That Crampton wrote a letter to Lieutenant Preston and Ensign Davis, the substance of which was, that any persons recommended by said Smolenski were to be received by them and treated as officers. I saw this letter, and made a copy of it.

That deponent saw several letters from Mr. Stanley to said Smolenski in or about the month of October last, the substance of which were that if said Smolenski would return the papers then in his possession, he, the said Stanley, would pay him 4,000 dollars; that Stanley afterwards came to Smolenski and wished to settle with Smolenski about the papers, which he refused to do. Deponent saw Strobel in Boston. He was known to me as a captain of the 1st company of the Foreign Legion.

(Signed) LOUIS CELAGI.

Subscribed and sworn to before me this 24th day of May, 1855.

(Signed) FREDK. SMYTH, *Notary Public.*

Dear Sir,

London, May 1, 1856.

I addressed my first letter to Mr. Charles Weeber; now I write to you as having the same interests. The peace lately concluded changed a little our affairs. The British Government, for our commissions, is ready to pay a just indemnity to me and to my officers. Yours and Charles Weeber's payment will fall on their parts; but in this case their presence here, as you can judge, at least of two of them, is indispensable, in order to ascertain the reality of their and your pretensions. The affair being unsettled, I am unable to send them the expenses of such a voyage. For common interest, you and Charles Weeber will not refuse to them some advance in such a purpose, which you will receive with utmost security. Sooner they will come here, so better for all. Do not doubt all will be settled in a satisfactory manner.

Receive my thanks for your kindness, and pay my best respects to Charles Weeber and his family.

Yours truly,

(Signed) JOSEPH SMOLENSKI.

London, the 1st May, 1856,
Duke-street, No. 30½.

United States of America, Southern District of New York, City and County of New York, ss.

Ignatius Magevski, of the city of New York; being duly sworn, says: That he is a military man by profession; has held the rank of second lieutenant in the Russian service, and also in the Hungarian service during the Hungarian Revolution.

That in May 1855 he was appointed a lieutenant in the Foreign Legion. His appointment is hereto annexed, marked A. He was stationed in New York to recruit; he knows Messrs. Barclay and Stanley, of the British Consulate in New York; commenced recruiting in New York on the 8th May, 1855; his office was No. 251, Broadway; was under orders of Smolenski; the recruiting lasted, under his orders, until the 10th of August, 1855. The men were sent by steamer to Boston, and thence to Halifax; by boat and railroad to Niagara, and from New York by vessels direct to Halifax. Mr. Barclay and Mr. Stanley knew of this; they furnished the money. The annexed paper, marked B, is in Mr. Stanley's handwriting. It is a direction to deponent in what vessel to ship men. On the 10th July, 1855, Mr. Barclay paid me 2,000 dollars, in twenty 100-dollar bills of the Grocers' Bank, New York, to pay Colonel Smolenski. This payment was for recruiting under Smolenski's order; I got it on an order from Smolenski to Barclay.

On the 29th June, 1855, I received 375 dollars from Stanley to pay passage money for the recruits. I was stationed at Boston on the 11th of August. Recruits were sent by me to Halifax from Boston on the 14th of August. It was an instalment of thirty men. Clark, Jones, & Co., were the disbursing agents in Boston. Whilst stationed in New York, I saw and conversed with Mr. Stanley

every two or three days. I saw and spoke to Mr. Barclay about as often; our conversations were about this enlistment business. I reported myself on these occasions at the British Consulate in New York, and they knew my business very well.

(Signed) IGNATIUS MAJEWSKI.

Sworn to before me, May 24, 1856.

(Signed) FREDK. SMYTH, *Notary Public.*

(A.)

Sir,

Boston, May 1, 1855.

By a confidential letter of the Honourable Joseph Howe, dated 28th April, 1855, and by command of his Excellency Lieutenant-Governor of Nova Scotia, I am authorised to raise at Halifax a regiment for the Foreign Legion for Her British Majesty's service. Communicating to you a copy of this Act, I have the honour to invite you to join me as a Lieutenant in my regiment.

I am, &c.

(Signed) JOSEPH SMOLENSKI.

Lieutenant Ignatius Majewski.

(B.)

Captain Kay,

Schooner "Sarah and Adelaine,"

Pier No. 14, North River.

(Endorsed on the other side, "Gaspar Giez, Canal-street, No. 206.)

United States of America, Southern District of New York, City and County of New York, ss.

Anthony Bukaty, now of the city of New York, engineer, being duly sworn, says: That, in June 1855, he was a resident in the city of Washington, following the employment of an engineer, No. 255, Sixth-street, between G and H. He thinks that was the number; in the neighbourhood of the Patent Office. Mr. Smolenski called on me, and he showed me the Act of Parliament authorising the formation of a Foreign Legion. He also showed me his contract with Mr. Howe, appointing him a colonel for a regiment to be raised. He solicited me to become the captain of the second company of this regiment. Deponent asked for time to consider, as he did not think Mr. Smolenski sufficiently empowered. The next morning Smolenski again called on the deponent, and then showed me a written contract between him and Colonel Ansell, then in Washington, and which appeared to have been concluded by the intermediation of Mr. Crampton on the preceding evening. This contract stipulated for the raising of a regiment by Smolenski, who was to be the Colonel. He was to have ten companies raised; one every month. Each company was to be of 100 men and non-commissioned officers. No particular place was specified where the enlistments were to be made, but it was understood to be in the United States. Smolenski was to receive 2,000 dollars for the expenses of raising a company. Smolenski had the original, and has it now with him in England. I accepted the appointment. I went to Halifax in September last. I went to Montreal in July, and was sent to Halifax in September.

In November last, towards the end, Mr. Stanley paid me 130 dollars.

I was stationed at Halifax to receive recruits; that was also my duty at Montreal. Recruits came from all parts of the United States.

(Signed) ANTHONY BUKATY.

Sworn to before me, May 24, 1856.

(Signed) FREDK. SMYTH, *Notary Public.*

United States of America, Southern District of New York, City and County of New York.

Leon Sierawski, residing at Morrisania, in the State of New York, being duly sworn : That he has been a Captain in the military service of Belgium, and came to this country about three years and a-half ago. That in April 1855 he resided on a farm near Tarrytown, in the State of New York, when he received a letter from Joseph Smolenski, who is now in England, and the deponent relates as follows :—

In consequence of such letter, I met Smolenski in the city of New York, and he told me that he was raising a regiment for England, and offered me the rank of Captain. He showed me letters from Mr. Crampton, in Washington, and Sir Gaspard le Marchant, of Halifax, which gave him this authority. He subsequently gave me the annexed paper, marked No. 1. This was given me in Boston. I accepted the appointment, and we went to Boston with him. I was there stationed as Supervising Agent. Mr. Crampton, on one occasion, called on Smolenski in Boston. This was at a time when Smolenski returned from Halifax with Carstensen and Clark. This was about May, or early part of June 1855. Men were dispatched from Boston who had come from New York and Philadelphia. Hertz was one of the enlisting agents in Philadelphia. I stationed Mr. Kowalski there, at Mr. Smolenski's order. Three hundred and fifty men went from Boston, who had come there as above stated. These men were all of them distinctly told that they were going to Halifax, there to be enlisted in the English military service, and were to get 30 dollars a-head bounty, and 8 dollars a-month. The last were sent in the latter part of the month of August 1855. The annexed papers, Nos. 2 and 3, are receipts for some of the men so sent to the British provinces. They are signed by George Bruce Davies, now a Captain in the Foreign Legion, and formerly an Ensign in the 76th Regiment of British Infantry. These papers are originals. Others were receipted for by Lieutenant Preston, at Niagara. The receipts are in the possession of Smolenski. I have seen in Smolenski's possession original letters signed by the Honourable Mr. Crampton. These letters authorised Mr. Smolenski to form a regiment, and to select his officers up to the grade of Captain. This letter was dated at Washington. Smolenski had altogether three letters from Mr. Crampton ; one dated Washington, another at Boston, and the other from Halifax. The Washington letter was dated in the commencement of May ; the second was from Boston, about a month later. Mr. Crampton, in this letter, expressed himself satisfied with the recruitments, and that they should continue. The last was from Halifax, some time later, but the contents thereof I do not know. In my line of duty I had to travel throughout the United States, and to Halifax, and Niagara, and the Canadas. I saw Mr. Crampton at Washington at the end of last November. I spoke to him about these recruitments, and asked him for my legitimate pay for my services and for my compatriots, to the number of six. He received me very well. He gave me his word of honour, placing his hand upon his heart, as an English gentleman, that he would get six months' pay as soon as I would be back to New York. In New York Mr. Stanley paid each 144 dollars for two-months' services. At the end of last January (1856) I again called on Mr. Crampton, but was not received. Mr. Lumley, the Secretary, told me that Mr. Smolenski was in England, and that he could do nothing. When, in November, I had the interview with Mr. Crampton, I asked him for a written order for the money, and he declined, saying that I could well understand that the political situation was such that he could not compromise himself.

I have seen the original papers of which the notarial copies, marked No. 4, are hereto annexed. Mr. Smolenski is in possession of the originals. It was the understanding, distinct and unequivocal, that the men were to be raised in the United States, and sent to the English dominions.

In August last I was in Halifax, and Mr. Mc Donald, the Provincial Secretary, offered me, on the part of Sir Gaspard le Marchant, a captaincy under the immediate appointment of Her Britannic Majesty. I declined on the grounds stated in the document hereto annexed, marked No. 5, and which is the draft of an original letter which I sent to Sir Gaspard le Marchant. The annexed paper, No. 6, is a letter of introduction to Lieutenant Preston, and

on which I was received by him, and treated with him on this enlistment business.

I have seen Strobel in Halifax; he was there pointed out to me as a captain in the Foreign Legion.

(Signed) CS. L. SIERAWSKI.

Sworn to before me, May 24, 1856.

(Signed) FREDK. SMYTH, *Notary Public*.

No. 1.

Sir,

Boston, May 1, 1855.

By a confidential letter of the Honourable Joseph Howe, [dated 28th April, 1855, and by command of his Excellency Lieutenant-Governor of Nova Scotia, I am authorised to raise at Halifax a regiment for the Foreign Legion for Her British Majesty's service. Communicating to you a copy of this Act, I have the honour to invite you to join me as a captain in my regiment.

I am, &c.

(Signed) JOSEPH SMOLENSKI.

Captain Leon Sierawski.

No. 2.

Foreign Legion, Quebec, August 10, 1855.

August 10, 1855.—Robert Cooke, 19, New York, clerk.

August 10.—William Bain, 21, Quebec, carver.

August 10.—Martin Mc Laughlin, 19, Ireland, Cabinetmaker.

August 10.—John Shea, 20, Quebec, cabinetmaker.

August 10.—Jerome Ally, 16½, Quebec, clerk.

By order of Count Smolenski :

(Signed) LOUIS GALESKI.

The five men within named have been received by me at this station.

(Signed) GEORGE BRUCE DAVIES,
Ensign, Foreign Legion.

Montreal, C. E., August 11, 1855.

No. 3.

Foreign Legion, Quebec, August 14, 1855.

August 14, 1855.—William Frost, aged 31, Northampton, England, labourer.

August 14.—Denis Finin, aged 22, Quebec, moulder.

August 14.—Patrick Healy, aged 19½, Ireland, sailor.

Montreal, Canada East, August 15, 1855.

The three men named herein have been received by me at this station.

(Signed) GEORGE BRUCE DAVIES,
Ensign Commanding Detached Foreign Legion, Montreal.

By order of Colonel Smolenski.

(Signed) LOUIS GALESKI.

Commonwealth of Massachusetts.

By his Excellency Henry J. Gardener, Governor and Commander-in-chief in and over said Commonwealth.

To all whom it may concern,

Know ye, that at the date of the annexed attestation, Edward A. Dexter was a Notary Public and a justice of the Peace for the county of Suffolk, in the

said commonwealth, duly constituted and commissioned, and that to his acts and attestations, as such, full faith and credit are and ought to be given in and out of Court; that the within attestation is in due form, and by the proper officer.

In testimony whereof, I have caused the public seal of the Commonwealth to be hereunto affixed, this 2nd day of May, in the year of our Lord 1856, and in the eightieth year of the independence of the United States of America.

By his Excellency the Governor.

(Signed)

FRANCIS DE WITT,
Secretary of the Commonwealth.

United States of America, Commonwealth of Massachusetts.

Suffolk, City of Boston, ss.

I, Edward A. Dexter, Notary Public, by legal authority admitted and sworn, and dwelling in Boston aforesaid, and a Justice of the Peace for the county of Suffolk, do hereby certify to all whom it may concern, that the annexed paper-writing, marked A, is a true and exact copy of a certain paper purporting to be a letter of instructions and agreement, signed by Joseph Howe, and addressed to Major Joseph Smolenski; which was presented to me by Joseph Smolenski, and by him declared to be an original letter—the same having been carefully examined and compared by me with said original at the request of said Smolenski.

In testimony whereof I have hereunto set my hand and affixed my notaria seal, this 24th day of September, in the year of Our Lord 1855.

(Signed)

EDWARD A. DEXTER,
Notary Public and Justice of the Peace

(A.)

(Confidential.)

My dear Sir,

Boston, April 28, 1855.

Referring to the conversations which we have had to the policy of the British Government, as explained to you, and to the wishes of the gentlemen associated with you, as you have explained them, I have now the honour, by command of the Lieutenant-Governor of Nova Scotia, to authorise you to raise in that Province a regiment to form part of the Foreign Legion, upon the terms:—

You shall be Colonel of the regiment when raised. Mr. Souckorowski shall be Major. The commissions of captains and lieutenants will be given to such officers as you may select.

The fares and passages of the men will be paid or provided by my agents at Boston or New York.

Four dollars per man will be paid to your order in Boston for any man shipped from thence. If any, on their arrival, refuse to enlist, you will find another to take his place.

Men who are in debt, or who may live beyond New York, may pay their debts or additional expenses by order on the Provincial Secretary in Nova Scotia, to be deducted from the bounty of 30 dollars which each man is entitled to receive.

I have, &c.

Major Joseph Smolenski.

(Signed)

JOSEPH HOWE.

Memorandum.

The words “in Nova Scotia to authorise you to raise,” were first written in the original letter (line 5), and then erased.

E. A. D.

I do hereby certify that the above document is a true copy of the original one given and delivered to me in Boston on the 28th of April, 1855, by the Hon. Joseph Howe, and by command of his Excellency the Lieutenant-Governor of Nova Scotia.

(Signed)

JOSEPH SMOLENSKI,
Colonel.

Boston, May 1, 1855.

My dear Sir,

Boston, April 28, 1855.

I have read the annexed letter, a copy of which has been furnished to me, and I undertake to serve Her Majesty the Queen upon the terms as therein explained.

Hon. Joseph Howe.

I have, &c.

(Signed) JOSEPH SMOLENSKI.

Sir,

Boston, May 1, 1855.

By a confidential letter of the Hon. Joseph Howe, dated April 28, 1855, and by command of his Excellency Lieutenant-Governor of Nova Scotia, I am authorised to raise at Halifax a regiment for the Foreign Legion, for Her British Majesty's service. Communicating to you a copy of this act, I have the honour to invite you to join me as a lieutenant in my regiment.

I am, &c.

(Signed) JOSEPH SMOLENSKI,

Lieutenant Joseph Trazaska.

Colonel.

No. 5.

Excellence,

Halifax, le 23 Août, 1855.

J'ai eu l'honneur de recevoir la communication de l'offre bienveillant de votre part par l'organe de M. McDonald, qui me propose un grade d'officier dans la légion étrangère au service de Sa Majesté Britannique. Une fois engagé dans la même légion par l'intermédiaire du Colonel Smolenski, aussitôt que cet engagement se trouve rompu par des circonstances indépendantes de cet officier, je ne puis que partager le sort bon ou mauvais de tous mes collègues et compatriotes qui ont pris part dans cette affaire, se fiant sur la validité de parole et droiture des agents de S. M. Britannique. Toute autre voie me paraît n'être qu'une forfaiture à l'honneur d'un gentilhomme.

J'ai, &c.

(Signé) L. SIERAWSKI.

No. 6.

Dear Sir,

New York, August 1, 1855.

I have the pleasure to introduce to your notice Captain Leon Sierawski, the first of my officers as captain, sent to take immediate active service in Her Majesty's Foreign Legion.

As I have, or ought to have, nearly two companies, and only one lieutenant, Ignace Zimeski, who is actually now at Halifax, and as his Excellency Sir Gaspard intends to send a portion of recruits to Europe, therefore it is my duty to collect all my men from all parts and dépôts, as also to present to his Excellency, for his approbation, the officers who shall take the command of said companies, for which organization I myself, temporarily, will leave the United States for Halifax. In consequence of the above statement, Captain Leon Sierawski is ordered to go to your dépôt with twenty men from here, to take all those which I did send previously with him down to Montreal, and without any delay proceed to Halifax, where I'll be waiting for him.

I trust, therefore, dear Sir, that you will have the kindness to expedite promptly Captain Sierawski with my and any other number of men you choose to send to Halifax under his command, as the vessel chartered by Government to transport for England the troops will leave Halifax about the 10th instant.

I am, &c.

Lieutenant Preston, 76th Regiment,

(Signed)

J. SMOLENSKI.

Niagara Falls, Butler's Barracks.

United States of America, Southern District of New York, ss.

Julius Parkus, of Hoboken, in the State of New Jersey, being duly sworn, says that he is at present a resident of Hoboken, New Jersey; that he is the same Julius Parkus who has been indicted in this district for being one of the parties engaged in recruiting in the United States for the British Foreign Legion during the late Crimean war. Deponent was engaged for such service, and with the rank of captain, by Mr. Josiah Howe, when he was at Delmonico's hotel, which engagement was afterwards confirmed by Mr. Stanley, in the name of the Governor of Nova Scotia. This happened in March 1855. Deponent went with Oscar Cromrey, who had an introduction on a card to Mr. Howe from Mr. Barclay, the British Consul in New York.

The pay was to be 72 dollars per month, which deponent regularly received from the middle of May 1855, to the beginning of January 1856. Deponent was paid generally once every two weeks, at the British Consulate in New York. Deponent was superintendent of the recruiting agents, and for a short time had charge of paying the recruiting agents, and to look to the transport of the troops. Mr. Cromrey and deponent had charge of this business.

The enlistments commenced in the beginning of April. From April to May deponent received for himself only his expenses. The names of some of the transports were the "Milo," the "Mary E. Smith," the "Buffalo," and the "Teazer." These vessels took recruits to Halifax; they were chartered by Stanley. Stanley and Mr. Crampton were in correspondence about this business. Deponent has seen and read letters from Mr. Crampton to Mr. Stanley about this business. In one of these letters Mr. Crampton wrote to Mr. Stanley that he could pay no more, as all his funds for that service were expended. This was in the end of November last, in answer to the application of deponent, Cromrey, and Schumacher to be sent to England. In another of these letters, about the month of September, Mr. Crampton wrote about Strobel, designating him as a traitor.

Sometimes the money was handed to Stanley by Mr. Barclay. Mr. Barclay engaged a Mr. Weiss to be a private in the Legion, as deponent was told by Mr. Stanley. In the month of September last Mr. Stanley called on the deponent, and asked him for all (deponent's) accounts and papers, as Mr. Crampton wanted them. They were given up, as well by deponent as by Cromrey, Schumacher, and Kuenzel, and Jorgensen. The latter is now in Boston. Mr. Stanley took these papers to Mr. Crampton, in Washington.

The enlistments were stopped at first in August, temporarily, then they were again commenced, and continued about a fortnight, and were then finally stopped.

Max. Thomann is now in Nicaragua; Stanley in September last sent him to Halifax to settle his account there. In September last Jorgensen, Thomann, and Kuenzel each received 130 dollars from Stanley. At that time Stanley showed us a letter from Mr. Crampton to him (Stanley), that he (Crampton) could do no more for them than to order each of them to be paid 130 dollars.

(Signed) JULIUS PARKUS.

Sworn to before me, May 23, 1856.

(Signed) FREDK. SMYTH, *Notary Public*.

United States of America, Southern District of New York, City and County of New York, ss.

Oscar Cromrey and *William Schumacher*, being duly sworn, say, each for himself, that they are the same persons who have heretofore deposed in this matter, as well for the Government of Great Britain as for the United States. That they know Max. Thomann. He is the same person who furnished the affidavits to the British Government in regard to Hertz, and which affidavits appear as having been sworn to before Mr. Edwards, in New York, and before some person in Philadelphia.

The said Cromrey says that he was present with said Thomann at Mr. Edwards' office, after the trial of Wagner. Saw Edwards pay Thomann money; Thomann told him it was 40 dollars. It was then and there arranged that Thomann should go to Philadelphia to get affidavits against Strobel and Hertz. Mehler, who made the affidavit in Philadelphia, is an intimate friend

of Thomann. The suggestion to go to Mr. Edwards' office was made by Mr. Stanley.

The deponents both say that said Thomann was very friendly and intimate with Stanley. Thomann was engaged in the recruiting business. He, Thomann, received large sums of money from Stanley for that business. Thomann and Stanley dispatched the "Adelaide" with recruits from New York to Nova Scotia. The only time they heard Strobel spoken of was by Stanley, about the time that Mr. Crampton had sent the letter calling him a traitor, and about the time of Wagner's trial. Stanley then informed the deponent that Strobel got 25 dollars a-week from the United States.

The said Schumacher says that when in gaol here in May for want of bail, Mr. Barclay sent the money for the support of the prisoners on that charge, then confined in Eldridge-street Prison, by Thomann.

The deponents both say that the British Consulate employed counsel for them, to wit:—Honourable W. R. Beebee and J. S. Carpenter, Esqrs. The said Carpenter is a brother-in-law of Stanley.

The deponents were present at the examination of the charge against them before Commissioner Betts, in May last. The deponent's counsel made the point that it was no offence in law for the deponents to induce persons in the United States to go to Halifax, there to be examined and enlisted in the British service, and to furnish them the means for going. The Commissioner, however, held that these deponents were chargeable with such offence.

The said Cromrey says that he was present in Court at the trial of Wagner. Thomann and Parkus were also present. Parkus asked Thomann to point out Strobel, and Thomann said that he did not know him. And further he says not.

(Signed)

OSCAR CROMREY.

WILLIAM SCHUMACHER.

Sworn to before me, May 24, 1856.

(Signed)

FREDK. SMYTH, *Notary Public.*

The said Cromrey further says, that D. Denicke's office, No. 5, Chambers-street, was used as a private rendezvous for the recruiting agents; that he was paid at the rate of 30 dollars a-month. The room was engaged by deponent. Stanley paid for it. Gave deponent the money for it several times. Further he says not.

(Signed)

OSCAR CROMREY.

WILLIAM SCHUMACHER.

Sworn to before me, May 24, 1856.

(Signed)

FREDK. SMYTH, *Notary Public.*

Affidavit of Julius Parkus.

United States of America, Southern District of New York, ss.

Julius Parkus being duly sworn, says that he knows Frederick Denicke. Said Denicke has made an affidavit for the British Government. Deponent paid said Denicke 30 dollars a-month for the use of his office as a private rendezvous for the agents in the enlistment business. Denicke's store was No. 5, Chambers-street. Stanley gave the money to deponent to pay Denicke. Cromrey also paid Denicke several times with money got from Stanley. Denicke knew what was going on. Deponent heard Stanley say to Denicke to take care "that he was not caught."

Deponent was present at the trial of Wagner in New York. Thomann was in Court, and deponent asked Thomann to point Strobel out to him, but Thomann said that he did not know him, Strobel. And further he says not.

(Signed)

JULIUS PARKUS.

Subscribed and sworn to this 24th day of May, 1856, before me,

(Signed)

FREDK. SMYTH, *Notary Public.*

[This person is one of the witnesses for the British Government.]

Affidavit of William Schumacher, March 12, 1856.

United States of America, Southern District of New York, ss.

William Schumacher, at present residing at No. 11, Crosby-street, in the city of New York, being duly sworn, says :—That he is a native of Schleswig-Holstein, and has been an ensign in the Fourth Riflemen of that country ; that he came to the United States in 1851 ; that in the spring of last year, 1855, he resided in the city of New York.

Some time in the early part of April 1855 I went from here to Boston at my own expense, intending to go to Halifax, there to enter the British service. I went in company with, and at the suggestion of, Mr. Cromrey. In Boston I went to the packet-office of Clark, Jones, and Co., in company with Mr. Cromrey. Cromrey showed to Mr. Clark a letter which he had from Mr. Howe, and they gave us tickets for a cabin passage in the barque "Halifax," to Halifax, and we went in her. I never paid anything for my passage, nor do I know who paid it. I suppose it was paid by the British Government. We arrived there about the 14th or 15th April, 1855. The keeper of the "Caledonia House" came on board, and asked whether there were any officers for the Foreign Legion on board ; that if there were any, he had been sent to take them to his hotel. We went to his hotel. We found there Mr. Carstensen, Mr. Jessen, Swensen, and Dr. Ashenfelt, all of whom now hold commissions in the English army. This was in the morning ; and about 12 m. that day we went to the Government building, where we met Mr. Wilkins, the provincial secretary. Cromrey showed him Mr. Howe's letter, and he said that he (Wilkins) was glad to see us up there : that the Government was willing to take our offers, which were that we wanted commissions in the Legion, if we were willing to return to the United States to raise a company of 100 men. He inquired our names, took them, and told us that we were enraptured, from that day, Cromrey as a captain and myself as a lieutenant. The captain's pay was, I think, 20*l.* per month, and the lieutenant's pay 11*l.* We told them that we would do so. He then told us to make out a bill for our expenses for coming from New York to Halifax, which I did for 75 dollars for myself, and which was paid by Mr. McDonald, a clerk in Mr. Wilkins' office. We went back to the hotel, where we saw Major Weiss, Captain Strobel, Lieutenant Schumann, and Lieutenant Van Essen ; the three last then on actual service on Melville Island, and wearing a British uniform cap.

Mr. Wilkins told us that we would get instructions how to act, and the necessary funds here in New York ; that he had mentioned our names in a letter he had given to Major Weiss. The letter, he said, was addressed, I think he said, to Mr. Turnbull, who was first paymaster here.

We left in the schooner "Mary Smith," for Boston ; Major Weiss, Colonel Smolenski, brevet officer Lauscarouski, Captain Carstensen, Lieutenant Jessen, and Lieutenant Rudelius, were also passengers. We arrived in Boston on Sunday, about the 22nd or the 24th of April, and stayed there till the next afternoon. Carstensen and Jessen remained in Boston. We obtained their address. Carstensen was the officer to take charge of the recruits from New York, on their arrival at Boston. We did not pay our passage. We arrived in New York the succeeding Tuesday morning. We went in Liberty-street and put up at a German boarding-house, which was a good place for enlisting. The next day Mr. Weiss arrived and told us he had seen the man who furnished the money (Mr. Turnbull) for the enlistment, and we advertised in two German papers for "five to ten young unmarried men who wanted to leave New York." The next day we sent ten or eleven men, and so on every day, for three or four days ; on the fourth day we were arrested. I made Mr. Stanley's acquaintance when I was bailed ; I never knew the men who became bail for me ; I never asked them to become bail. Whilst in jail I wrote a letter to Judge Beebee, which Cromrey and Perkinson signed, asking him to come down and see us in jail. He came the next morning, and I told him that in a day or two I would tell him to whom to look for his fees. Mr. Thoman then arrived from Boston, came to the jail, and we sent him to the British Consul, to state our position and to require bail and counsel. He came back, and told us that Mr. Stanley had

already engaged Mr. Carpenter as our counsel ; but that they would also retain Judge Beebee for us, and that they would arrange everything in regard to bail, so that we had no doubt that we would get out the next day.

After being several days in jail, some one bailed me. I then became acquainted with Mr. Stanley ; I was introduced to him as one of the officers ; and from that time to January, 1856, I have received pay, at the rate of 72 dollars per month, from Mr. Stanley. After my release I made further enlistments, until some time about August 1855 ; Mr. Stanley knew of this. We called almost every day at the British Consulate, in New York, to see Stanley. Mr. Barclay, the Consul, knew me by sight ; he always bowed to me, or made some sign of recognition. Mr. Stanley once gave me 200 dollars in cash to take ten recruits to Montreal ; Mr. Barclay was then in the office. Stanley also gave me a letter to Mr. Bruce Davis, of the English army, at the recruiting depôt in Montreal ; he also gave me 25 dollars to buy mattresses for the accommodation of recruits on board a vessel in Brooklyn. Stanley also gave me, for my pay, his checks on the Grocers' Bank, New York ; I gave Stanley receipts for the payments. Mr. Stanley, some time in August, and not before, gave the order to stop recruiting. In September 1855, Mr. Stanley told us that he was going to Washington to Mr. Crampton, and required all papers to be given up to him. I remember the occasion of the examination on which Antony Rosenbaum was a witness for the United States ; Mr. Rosenbaum testified to having had a letter in reference to this business from Mr. Carstensen to Major Weiss, and which he, Rosenbaum, had given to a young man in the Bowery for safe keeping ; the examination was adjourned, to enable Rosenbaum to produce the letter. In the meantime I had received from Mr. Stanley 5 dollars to get the letter from the man whom Rosenbaum had given it to, and I got it, and have ever since had, and I now produce it, and it is annexed. The letter could not be produced by Rosenbaum. While Rosenbaum was in jail I gave him 12 dollars, which Stanley returned to me. I am twenty-three years of age. I was present when Stanley paid the witness fees for the witnesses against Rosenbaum.

(Signed) WILHELM SCHUMACHER.

Sworn to before me, March 12, 1856.

(Signed) FREDK. SMYTH, *Notary Public, New York.*

My dear Sir,

Boston, Massachusetts, May 3, 1855.

Mr. Rosenbaum has delivered to me the men he was in charge of, and has received from me the sum of 4 dollars per head. This sum, according to what I have already written to you, must not be exceeded (including expenses), except by arranging the matter so as Mr. Thoman will explain to you.

As, however, this time Mr. Rosenbaum has had expenses for the men, amounting to 2 dollars in all, you will please refund this to Mr. R., and charge it to the Government by which it *will be* honoured.

The agents bringing men are entitled to tour and *retour* tickets free ; as Mr. Rosenbaum has not received a *retour*, you will please reimburse this expense at Government charge.

Your sincere friend,

Major Weiss,

(Signed)

F. ELYLFORBE CARSTENSEN.

New York.

[This person is witness for the British Government in this case.]

United States of America, Southern District of New York, ss.

Oscar Cromrey, residing at No. 27, Bayard-street, in the city of New York, being duly sworn, says :

I have been in the Prussian military service, and have been a Lieutenant in the 11th infantry battalion of the forces of Schleswig-Holstein. I came to the United States in 1853.

When I read in the newspapers the passage, in the British Parliament, of the Foreign Enlistment Bill, I wrote to Sir Edmund Head, at Quebec, and to the Duke of Newcastle, British War Minister at London, to raise officers and

men in the United States for the Foreign Legion. I received an answer from Sir Edmund Head's secretary, that they would write to the Home Government, and that then I would receive a definite reply. I received a printed letter from the office of the Duke of Newcastle, that in a short time further communication would be entered into with me. I wrote from my then stopping place in New York, and received my reply to the care of Carstensen and Gildemeister, architects, Appleton Building, New York. This letter from the British War Office I received in the last part of February or beginning of March last, and the next day I received a message to come to the British Consulate in New York. I went there, and saw Mr. Barclay. Mr. Barclay told me that he had on the previous day received a letter from Canada, and asked my opinion about recruiting in the United States; whether I believed it would be easier to send the people by vessel or by railroad, and I told him I thought it would be best to send them by railroad—that shipping by vessel would be too troublesome. He said he would report my answer to Canada, and that he would be glad to see me again in eight or nine days. I called again after ten or twelve days, and introduced Mr. Thomann to him, as I had some difficulty then in making myself understood in plain English. I called there repeatedly, and in the first week in April I went to Mr. Barclay's office. Mr. Barclay gave me a card of introduction to Mr. Joseph Howe. Mr. Barclay said that his previous communications had been with Canada, but now the Home Government had transferred this matter to Nova Scotia, and therefore he sent to Mr. Howe. Mr. Joseph Howe was then stopping at Delmonico's. Mr. Bucknell was Mr. Howe's secretary. I saw Mr. Howe several times, and he (Howe) asked my opinion, but made no arrangements with me. He gave me, however, a letter of introduction to Sir Gaspard le Marchant, at Halifax. I then, with Schumacher, went to Halifax. I corroborate all the facts spoken to by Mr. Schumacher in the deposition made by him, and hereto annexed. I drew my first monthly payment of 72 dollars from Mr. Stanley, in the British Consul's office, and have drawn pay from him to January last. Mr. Stanley also introduced me at the shipping office, No. 27, South-street, where vessels for Halifax and Nova Scotia are put up, and said that if I came and chartered any vessel, that I had the right to do so for him or the Consul. It then became my duty to charter the vessels for the recruits, and to make the arrangements. I chartered the "Sarah Adelaide" twice, the "Buffalo," and the schooner that was taken at sea. During the latter portion of the service Mr. Hosack chartered the vessels.

Mr. Barclay and Mr. Stanley both knew of our carrying on the enlistment. Mr. Stanley gave me money, and spoke to me about this business in the presence of Mr. Barclay.

The final order to stop recruiting was given in August. The annexed paper envelope is the envelope of the letter I received from Sir Edmund Head. The original letter, and also the document received from the British War Office, were given up by me, on the request of Mr. Stanley, to him, when he went to Washington, to settle accounts with Mr. Crampton.

Our pay, 72 dollars a month, was to continue, by agreement with Mr. Stanley, as long as we remained under bail. He said he did so as being empowered by the British Minister at Washington, and when the case was finished we were either to be sent to England or otherwise compensated.

I have had frequent conversations with Mr. Barclay about this business. He told me at the start that the thing must be kept secret, so as to have no trouble about the United States' laws. I engaged sub-agents with Mr. Barclay's knowledge. They got 5 dollars head-money, which was paid by me from money received by me from Stanley for that purpose. I know that Lutz was employed by Mr. Howe. I engaged, as sub-agents, Wachter, Trevant, Meyer, and others.

I am twenty-six years of age.

In the fall of last year (October or November), Mr. Stanley sent me to see Strobel, and to ask him how much he claimed to leave the United States. About the end of July last I received 230 dollars, or thereabouts, from Mr. Stanley, to take sixteen men to Niagara, Canada, which men I delivered to Captain Preston. I found about ninety men there, all from the United States. I got it at the Consulate. Mr. Barclay was there.

(Signed)

OSCAR CROMREY.

Sworn to before me, March 12, 1856.

(Signed)

FREDK. SMYTH, *Notary Public, New York.*

Envelope.

(Copy.)

M. Oscar Cromrey,

Care of

Messrs. Carstensen and Gildemeister,

Paid.

348, Broadway,

Barclay.

New York.

[Envelope bears postmarks of Quebec and Montreal.]

United States of America, Southern District of New York, ss.

Louis Kazinski, of No. 74, West Twenty-third-street, in the city of New York, being duly sworn, says:—

That he is the same person who, on or about the 22nd day of October last, made a declaration on oath before Charles Edwards, Notary Public of the State of New York, at the City of New York, touching and concerning Max F. O. Strobel and others, for the use of the British Government.

And this deponent further says, that he is the author and writer of the annexed printed statement, entitled "The Mysteries of British Recruiting," and signed "An Officer in the late British-American Foreign Legion," addressed to the editor of the "New York Tribune," and dated New York, March 11, 1856, and published in said "Tribune" on the succeeding or next succeeding day.

And this deponent further says, that all the statements, facts, and allegations in the said printed publication contained are all and each and every of them true.

This deponent further says, that the name of the person described in said statement as a Russian, called Mr. White, was, in fact, Weiss.

This deponent further says, that a fee of 500 dollars was paid to the counsel for this deponent at Boston upon his trial, as therein stated. That such fee was laid out by Charles H. Stanley for account of the British Government. Said Stanley had no means of his own, and he has told this deponent, on many occasions, that he, Stanley, got some of his money for that purpose, and for the recruiting business, from Mr. Crampton, the British Minister at Washington, and also from the Colonial Government at Halifax. Deponent had repeated occasions to ask said Stanley for money to pay the parties who had been acting as agents for the enlistment, and said Stanley would refer to his waiting for money from Mr. Crampton. Deponent has seen said Stanley write letters by mail to Mr. Crampton, and also telegraphic despatches, which deponent read before they were sent. These letters and despatches did in terms require Mr. Crampton to send money to said Stanley, to pay for the enlistments, as the money was wanted. Deponent was on familiar and confidential terms with said Stanley. Said Stanley is a hard-drinking man, easily excited by liquor, and when so excited, is very communicative. These requests for money appeared to be promptly and readily answered from May 1855 to September 1855, when said Stanley went to Washington, as hereinafter mentioned.

Deponent further says, that, to the knowledge of deponent, two vessels, viz., the "Taesel" and "Buffalo," were chartered to carry the recruits from New York to Nova Scotia. There was a distinct correspondence between Stanley and Mr. Crampton regarding these vessels and their purpose. Stanley reported to Mr. Crampton the number of recruits on board, designated them under fictitious characters, and Mr. Crampton replied in the same style. Deponent read this correspondence. This was in the months of May and June 1855. About the beginning of last August (1855), Mr. Stanley proposed to this deponent to take all the papers, in the capacity of messenger, to Mr. Crampton, but a letter was received from Mr. Crampton, and which was seen and read by deponent, advising Mr. Stanley temporarily to stop the enlistments, and the arrangement to go as messenger was not made. Deponent knows Mr. Crampton's handwriting well. Deponent says that he was paid at the rate of two dollars per day, which pay continued until the month of January 1856. Depo-

ment's business with Mr. Stanley was transacted mostly at the British Consulate, in the city of New York, in the presence and hearing, and undoubtedly with the knowledge of Mr. Barclay, the British Consul. That sometimes, when deponent would desire money, in anticipation of Mr. Crampton's remittances, Mr. Stanley would ask Mr. Barclay for it, and get it from him. In September 1855, Mr. Stanley went to Washington himself with the papers, to deliver them to Mr. Crampton. Deponent says that one Smolenski, who was to be the Colonel of the Legion, was frequently referred to by Mr. Stanley as having important papers from Mr. Crampton, and that he had paid him 800 dollars.

(Signed) LOUIS KAZINSKI.

Sworn to before me, May 23, 1856.

(Signed)

GEO. F. BETTS, *United States' Commissioner.*

THE MYSTERIES OF BRITISH RECRUITING.

A clear inside view.—Patriotism and perplexities of Stanley.—Naval expeditions defeated.—How the Consulate failed to pay up.—With other interesting particulars.

British Recruiting in the United States.

To the Editor of the "New York Tribune."

Sir,

Since the attention of the public has been considerably excited by the declaration of Lord Clarendon in Parliament, that no further apology would be tendered to the American Government for the violation of the Neutrality Laws, a simple narrative, based upon facts, may not be out of place in the columns of your journal at this moment.

After a fruitless voyage from the United States to England, I returned to this country a year ago, where, to my utmost surprise, I saw an advertisement in the German newspapers of this city, "Wanted, 10,000 men to enlist in the Foreign Legion." After some inquiries I was directed to the British Consulate, in Barclay-street, for further information. On arriving and explaining the object of my visit, Mr. Barclay informed me that I would best obtain my wish by travelling to Halifax and presenting my demand to Sir Gaspard le Marchant. I then told Mr. Barclay my unsuccessful voyage to England on this very subject, and he politely enough tendered me his services by forwarding any letter I wished to direct to the Colonial Government at Halifax. I did write a letter addressed to Sir Gaspard le Marchant, which I gave to Mr. Barclay, but never received an answer.

Some weeks later I returned to the Consulate, and found another gentleman, to whom I addressed my request, and was begged to wait until the arrival of the gentleman who had the affairs of the recruiting business in his hands. This was Mr. Stanley, Secretary of the Consulate. He informed me that he had the direction of the enlistment business in his hands, and that no commissions were given to any body; that the rank of a commission depended entirely on the number of men brought to Halifax—100 men for a captaincy, and so progressing; that he had money in his hands to pay five dollars for every man shipped to Halifax, and that he would try to put me on the pay-list at the rate of eighteen dollars a-week. I soon found agents who procured me men, who were put down to my account, and for whom my agents were paid five dollars per head, in the presence of Mr. Stanley, in Chambers-street. A few days after, this gentleman requested me to take command of a number of men who were to be shipped for Halifax in the "Tiesel," a Nova Scotia vessel of about 100 tons, which was lying in the East river, on the Brooklyn side.

I consented; and the same evening, with instructions in my pockets, and in company with Mr. Stanley, left the Prescott House in a carriage for Brooklyn. Before leaving New York, Stanley wished to take a Russian, by the name of White, with him, who lived in a German boarding-house in William-street, and who was recommended to him by the President of the German Aid Society, assuring me that he was a stout-built man, who could be of considerable service to me in case of a difficulty on board. After some trouble we succeeded in

finding the Russian, and soon after found ourselves in Brooklyn. Great was our disappointment when the captain of the "Tiesel" assured us that, notwithstanding his assurances, he could not be ready for sea before Monday night, and that all the recruits were in a boarding-house.

Mr. Stanley, though somewhat enraged, soon became satisfied with the arrangement, paid to the captain 500 dollars, and 25 dollars to the landlady, and requested me to see how many candidates for gunpowder were there. It would be a difficult task to describe my surprise, produced by the ludicrous appearance of these fellows, and no sooner were my feet safely lodged in a room, which my guide called a bar-room, than at least twenty voices, in three different tongues, and as many patois, were screaming after brandy, lager-beer, cigars and tobacco. I tried to pacify these hungry wolves, gave strict orders for them to be kept in doors, and left in company with Stanley again for the Prescott House.

Monday came, and carpet-bag in hand, and a pair of pistols in my pocket, I was ready to start, when Mr. Cromrey, a Lieutenant in the pay of Stanley, brought us the information that the United States' Marshal, with a posse of men, was arresting our recruits, and that he saw Joachimson conversing with the Russian. Hazardous as it may seem, I took a carriage and drove over to Brooklyn, and here saw enough. I saw the United States' Marshal surrounded by his men and many spectators. I escaped, fortunately, and gave new instructions to my agents to be more prudent in their engagements. Soon after I sent an agent of mine with a number of men by railroad to Boston, where the house of Clark and Jones had orders from Halifax to ship these men for the place just named. It seemed that my agent, by the name of Philipp Kaufman, for the sake of gain, deceived these men, and, on arriving in Boston, his recruits revolted and had him arrested. Soon after, Mr. Stanley engaged the barque "Buffalo," commanded by Captain Stuart, for the purpose of taking recruits to Nova Scotia. After having succeeded in filling this vessel with men of all sizes, qualities and disqualities, I, in company with a certain Mr. Hussack and Mr. Rudelius, left New York and reached the "Buffalo," which had previously sailed, near Blackwell's Island. Arrived on board, I counted the men and handed the said Hussack a certificate, stating the number of men on board, for Mr. Stanley. Shall I confess how utterly disgusted I was, not only with the accommodations for me and my sub-lieutenants, but even for the men? Two bundles of straw spread for seventy-one persons, who were constantly kept below to avoid suspicion; and, as if Providence were against me, not the slightest breeze to carry us out of danger. Mr. District Attorney McKeon and Mr. Joachimson were constantly before my eyes, and every steamer coming or going gave me a nervous excitement. In the day-time, the sun scorched me; at night, with the deck for my couch, and my carpet-bag for my pillow, I had to fight myriads of mosquitoes. That my moral miseries might be complete, Captain Stuart had not even a pound of butter, fresh or old, or a pound of meat, on board.

After eight days' torture, we reached Tarpaulin Cove, where a perfect calm obliged us to let the anchor go, and not having sufficient fresh water, Captain Stuart and Mr. Rudelius, whom I begged to buy some provisions, went ashore. Scarcely had they left the vessel, when, not far from us, I discovered a United States' revenue cutter, and soon, to my utmost dismay, one of the men signaled by signs of his hand to the officers of the cutter. It was recognized; a boat was lowered, and an officer of the cutter boarded our vessel. After a short conversation with my men, the officer turned to me, asking if I was a British officer. Not deeming it proper to answer this question, he asked after the captain, and was told that that individual was ashore. He then returned to the cutter. Mr. Stuart returned with water and some provisions, but no sooner was he on board, than the Lieutenant returned with the instructions of his Commander, Captain Clarke, which placed us under his custody.

Two days elapsed on this uninteresting coast without a change in regard to our position. On the evening of the second day, a United States' officer, accompanied by the United States' Marshal of Boston, as I was informed, boarded our vessel, and soon requested our company. Here a kind of interrogatory was commenced to ascertain our names, and which resulted in the dismissal of the barque "Buffalo," and our captivity. A fresh breeze soon brought us to Boston. Here, carriages were procured for me and my officers, which brought us to the United States' District Court, where the United States' Com-

missioner, Woodbury, bound me and my officers each in 1,000 dollars to appear before the United States' District Attorney. Mr. Rudelius immediately telegraphed to Mr. Stanley, to which this gentleman paid no attention. How to procure bail was a riddle to me. Though having many personal friends in Boston, I hesitated to request such a service from them, as the cause of my arrest could scarcely be in harmony with their feelings; still my position was anything but pleasant—scarcely any means of subsistence, with two officers and a doctor claiming my moral protection, I resolved upon finding bail, and begged the District Attorney, Mr. Hallet, for a few hours' liberty. My request was granted; but as it was late in the evening, all the business places were deserted, and I returned to the District Court, where the United States' Marshal conducted me to prison.

My indignation knew no bounds, having several times telegraphed to Mr. Stanley, yet being without an answer. Next morning, at 10 o'clock, we appeared again in Court, and Mr. Woodbury counselled me to employ lawyers.

I again requested Mr. Hallet for a few hours' liberty, which were granted me, and success now crowned my enterprise. A friend, whose name I am not at liberty to disclose, gave the necessary security for my appearance, and advanced me money enough to make the three other officers comfortable, who, since then, have lived upon the prison food. I even obtained from Mr. Hallet a recommendation for the prison-keeper, which gave me permission to visit these unfortunate gentlemen, and which gave them some additional comforts. My trial was postponed, and I had a week before me to visit New York. Having not yet received a single note from Mr. Stanley, I could scarcely believe that I had to deal with a gentleman, an official of Her Britannic Majesty, and the confidant and acting agent of Mr. Crampton. To his not very great joy, I arrived on the 4th of July at the Prescott House, where, after many protestations of his innocence in respect of what I had suffered, he assured me that everything would be done to my satisfaction, and he, sure enough, had instruction to that purport from Mr. Crampton. Lulled again into confidence by his apparent candour, with a letter of a very limited credit on Clark and Jones, in Boston, I left New York.

At last the day of my trial appeared; Messrs. Andrew and Burt acting for me and the other officers, and Mr. Hallett for the United States' Government. Nearly all the men found on the "Buffalo" were witnesses against us. But their evidence was too feeble; they had never seen me before my arrival on the Buffalo, had even scarcely spoken to me, and, in fact, did not know me. The Presiding Judge, after summing up the case, recommended the jury to render a verdict of "not guilty," to which verdict the jury agreed unanimously, without leaving the Court-room.

The trial had lasted nearly a week, and though I never feared a conviction, I certainly felt more at ease. Having waited for instructions from Mr. Stanley a reasonable time, and receiving none, I concluded that my presence was needed in New York, and procuring the bill from my lawyers, which amounted to 1,000 dollars, I departed for New York. I saw Mr. Stanley at his office in Barclay-street, and handed him the bill, at the same time asking again for money to pay some debts necessarily incurred on account of my trial in Boston. He then proposed to me to proceed to Washington with despatches for Mr. Crampton, adding he could not trust such letters to the post-office. I gladly accepted his offer. The next day he said he had telegraphed to Mr. Crampton, and had since changed his mind. A week passed; my bill became due at the St. Nicholas, and I asked Stanley for money. He then excused himself under the plea that the British Government had sent orders to Mr. Crampton to discontinue for the present the enlistments, and that this gentleman had written to him (Mr. Stanley) to cease all recruitings (which letter I read), and that he had no funds, and was unable to give me any money. I suspected that I misunderstood Mr. Stanley, being unable to comprehend how any one having a human conscience could deny his moral engagements with a gentleman who had acted only too honourably with his employer. I remonstrated, but to no purpose. Dejected in spirits, I returned to my hotel, where Mr. Strobel awaited my return with impatience. He openly proposed to me to make overtures to the United States' Government, but, though ill-treated, I declined to betray confidence.

Again, I returned to Mr. Stanley, and found him with Mr. Cromrey, to whom he gave money, and further instructions to accompany a number of recruits by railroad to Buffalo, and from there to Canada. I begged to have the command of this convoy, but he declined my services with the frivolous excuse that I was not lucky in my undertakings. I regretted exceedingly my misfortune, and wished to be informed if recruiting had recommenced. He denied it, and said that these were the last recruits sent to Halifax. He still retained three German officers in pay—Cromrey, Parker, and Schumacher. Any quantity of boarding-house keepers presented their bills to him; some of which he paid, and others rejected. The Hertz trial at Philadelphia then touched Mr. Stanley's conscience considerably, and fearing that his own trial would at last begin, he again became more friendly toward me; and having heard that Mr. Strobel and I were on a friendly footing offered me 50 dollars if I would make an affidavit of my knowledge of Captain Strobel's actions. I did not see any objection to doing so, because my knowledge could be of no possible use to him; and he gave me a line to Mr. Charles Edwards, who received my affidavit.

It then became evident to Mr. Stanley that the United States' District Attorney had several times wished to see me, and under the feeble pretext that I was of considerable service to him, he again wrote a note to Mr. Edwards to arrange matters to my satisfaction. A conversation then took place between me and that gentleman, when I was told that, if I would wait till the end of Mr. Stanley's trial without asking for any compensation for my services, I could be of far more service to that gentleman. I refused to do this; when Mr. Edwards wished me to call the next day, since he desired to see Mr. Stanley again in reference to the sum of money to be stipulated to insure my silence. The next day Mr. Edwards said that, as the counsel, he could not very well have any knowledge of any money transaction between me and Stanley; but if I would see that gentleman, everything could be arranged to my satisfaction. Without even considering my interest, I accepted the proposition of Mr. Stanley, which was to pay me two dollars a-day till his trial was over, and then to have a liberal compensation, for which I had to keep silence, and when put on the witness-box to refuse to answer, on the plea of compromising myself. I then saw Stanley often, and he repeatedly told me that I was the only witness he feared. He fulfilled his engagement with me for eight weeks, and then declared that he had no money on hand to pay. He telegraphed several times to Mr. Crampton without, as he said, receiving an answer, till, being hard pressed by the German officers, he went last January to Washington, and after returning he paid to those officers each 130 dollars. In claiming my dues, he said that Mr. Crampton had no money, and the British Government refused to send any more. During the period from August till late in the fall of 1855, Stanley several times wished to compromise or bribe Mr. Strobel, and instructed me to make overtures to that effect to that gentleman.

If the British Cabinet really apologized in June last, as Lord Palmerston states in his reply to Mr. Roebuck, for the violation of the Neutrality Laws, the same offence, since that time (even as late as the end of July and commencement of August), was repeatedly committed through the agency of Crampton, and his aide-de-camp Stanley.

As soon as the recruiting was over nearly all the officers were dismissed, without any compensation, by the authorities of Nova Scotia. All the engagements contracted with British officials were violated by them, and only a few, who had important letters from Mr. Crampton, received considerable sums from Mr. Stanley to secure their silence.

I am, &c.

(Signed) AN OFFICER IN THE LATE BRITISH-AMERICAN
FOREIGN LEGION.

New York, March 11, 1856.

New York, ss.

The said Louis Kazinski, being further sworn, says: That during last winter, some time in December or January last, deponent was present in the British Consulate in New York, and saw Dr. Frederick Denicke paid for the use of his rooms for the enlistment business. Denicke claimed a balance, and

Stanley objected to it. There was a dispute between them, and it was settled by Stanley giving Denicke a cheque for the amount.

(Signed) L. KAZINSKI.

Sworn to before me, May 24, 1856.

(Signed) GEO. F. BETTS, *United States' Commissioner.*

United States of America, Southern District of New York, ss.

Oscar Cromrey being sworn, says: That he knows the handwriting of Honourable John F. Crampton; that he has seen two letters in the possession of Charles H. Stanley, which were signed by said Crampton. The first letter he saw in September last. This letter referred to one Smolenski, who was to be a Colonel of the Legion, and Mr. Crampton, in answer to Smolenski's claim for compensation, wished to hear Stanley's opinion of what should be done with Smolenski. The second letter he saw was in January last. Deponent had applied to Mr. Crampton for money, and Stanley showed an answer that Crampton wished to hear Stanley's views.

Mr. Stanley claimed to be in constant correspondence with Mr. Crampton.

(Signed) OSCAR CROMREY.

Sworn to before me, May 23, 1856.

(Signed) GEO. F. BETTS, *United States' Commissioner.*

United States of America, Southern District of New York, ss.

William Schumacher being sworn, says: That he has read the annexed affidavit of Oscar Cromney, dated this day, and that the same is true to the knowledge of deponent.

(Signed) WM. SCHUMACHER.

Sworn to before me, May 23, 1856.

(Signed) GEO. F. BETTS, *United States' Commissioner.*

Southern District of New York, ss.

I, Morris Kieckbach, of No. 206½, Canal-street, physician, do swear, that about five months since deponent arrived at this city from Brazils, and, at the instance of several families, went to Montreal, there to settle as a physician and surgeon. At Montreal deponent heard that the British Government was about to form a Foreign Légion to go into the service on the continent, and that the authorised agent of the Government was then at Boston. I then went to Boston, and found Colonel Smolenski and Captain Carstensen. Smolenski was to raise a Polish regiment, and Carstensen was to have a command in the battalion of Germans raised by Major Weise. Smolenski introduced me to the Honourable Joseph Howe, in Boston. He boarded at the Tremont House. This was about the 26th to the 28th of April last, or perhaps a day or two later. Mr. Howe declared himself to be the agent of the Colonial Governor of Nova Scotia, and acknowledged me as staff or regimental surgeon to the Polish officers' regiment under Smolenski; and, at the same time, this deponent was engaged as the representative and agent, in lieu of Smolenski, at Boston. This deponent's duty, as such agent, was to receive the persons who had been enlisted and sent to Boston, to bring them into boarding-houses, ship them to Halifax, pay their debts, receive money from Clarke, Jones and Co., for account of Howe, and to pay 4 dollars a-head for each man to the agent who had enlisted them. I acted as such agent to the 18th May. I drew 327 dollars, Captain Carstensen, 949 dollars, and Colonel Smolenski, 465 dollars. Some of the men, say about 50 of 200, that I had sent, had been rejected at Halifax, who reproached me for having inveigled them. I then went myself to Halifax. I there received permission from Governor le Marchant and Messrs. Howe and McDonald to visit Melville Island, which is used as a dépôt for these men. I found there about 200 soldiers, who were very discontented. There was another house in Boston which paid agents' fees, namely, Sprague, Soulé and Co.

I represented to Governor le Marchant that the men were discontented, and he promised to see them satisfied. He referred me to Mr. Crampton, the

British Minister at Washington, who was to refund me what I had advanced out of my own funds, and to arrange with him about the further organisation.

He said that he (the Governor) had no further power; that the Home Office had transferred it to Mr. Crampton. I was told I would find Mr. Crampton at Washington, or at the British Consulate of Mr. Grattan, in Boston, between the 5th and 15th June. Not finding Mr. Crampton there, I spoke to Mr. Grattan, who also referred me to Mr. Crampton, and said that he would not be in Boston. I then went to New York, and spoke to Vice-Consul Stanley, British Vice-Consul at New York. Mr. Stanley told me he heard and read that there was a warrant out against him; that there were many spies about, and that he had no order to pay me; and when I spoke to him about Mr. Crampton, he said that all my business with Mr. Crampton must come through him.

(Signed)

DR. M. KIECKBACH.

Sworn to before me, June 18, 1856.

(Signed)

GEORGE W. MORTON,

United States' Commissioner.

No. 2.

Mr. Crampton to the Earl of Clarendon.—(Received June 16.)

My Lord,

Washington, May 28, 1856.

I HAVE the honour to inclose the copy of a note addressed to me by the Secretary of State of the United States, informing me that the President had come to the determination to discontinue official intercourse with me as the Representative of Her Majesty's Government, and transmitting to me a passport, in case I should be pleased to leave the United States.

I have also the honour to inclose a copy of my reply to Mr. Marcy's communication.

I have, &c.

(Signed)

JOHN F. CRAMPTON.

Inclosure 1 in No. 2.

Mr. Marcy to Mr. Crampton.

Sir,

Department of State, Washington, May 28, 1856.

THE President of the United States has directed me to announce to you his determination to discontinue further intercourse with you as Her Majesty's Diplomatic Representative to the Government of the United States. The reasons which have compelled him to take this step at this time, have been communicated to your Government.

I avail myself of this occasion to add that due attention will be cheerfully given to any communications addressed to this Department from Her Majesty's Government affecting the relations between Great Britain and the United States which may be forwarded to this Government through any other channel.

Should it be your pleasure to retire from the United States, the President directs me to furnish you with the usual facilities for that purpose. I consequently inclose herewith the passport given in such cases.

I avail, &c.

(Signed)

W. L. MARCY.

Inclosure 2 in No. 2.

Mr. Crampton to Mr. Marcy.

Washington, May 28, 1856.

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honour to acknowledge the receipt of the note, dated the 28th instant, addressed to him by the Honourable W. L. Marcy, Secretary of State of the United States, by which the Undersigned is informed that the President of the United States has determined to discontinue further intercourse with the Undersigned, as the Representative of the British Government, and has furnished him with a passport, in case he should please to retire from the United States.

The Undersigned has the honour to request that Mr. Marcy will be so good as to furnish him, in addition to this passport, with passports for the other gentlemen belonging to Her Majesty's Legation at Washington, a list of whose names is herewith inclosed.

The Undersigned, &c.

(Signed)

JOHN F. CRAMPTON.

Inclosure 3 in No. 2.

List of the Gentlemen belonging to Her Majesty's Legation at Washington.

John Savile Lumley, Esq., Secretary of Legation.

Henry Hervey, Esq., Attaché.

Frederick R. Warre, Esq., Attaché.

No. 3.

Consul Barclay to the Earl of Clarendon.—(Received June 18.)

*Cavendish Hotel, Jermyn Street, London,
June 17, 1856.*

(Extract.)

I BEG to acquaint your Lordship that, on the 29th ultimo, I received, at New York, a despatch from Mr. Marcy, Secretary of State of the United States of America, of which I inclose a copy, informing me that, for reasons which had been made known to Her Majesty's Government, the President had revoked my exequatur as Her Majesty's Consul.

Thereupon I considered it to be proper on my own account, no less than my duty to Her Majesty's Government, to repair to London and to report myself to your Lordship, in which view I was confirmed by Mr. Crampton, who arrived in New York on the evening of the last named day, and I accordingly embarked with him for England on the 4th instant.

Your Lordship has already been informed of the fact that I had no participation in the recruiting system which has been alleged as the cause of the revocation of my exequatur.

Inclosure in No. 3.

Mr. Marcy to Consul Barclay.

Sir,

Department of State, Washington, May 28, 1856.

FOR reasons which have been communicated to Her Majesty's Government, the President has revoked the exequatur heretofore granted to you, by which you were permitted to exercise the functions and enjoy the privileges of British Consul at New York.

I herewith send to you a copy of the act of revocation.*

I have, &c.

(Signed)

W. L. MARCY.

* Inclosure 2 in No. 4.

No. 4.

Consul Rowcroft to the Earl of Clarendon.—(Received June 19.)

My Lord,

Cincinnati, June 2, 1856.

I HAVE the honour to report to your Lordship that I have received (on the 31st ultimo) the notification of the withdrawal of my exequatur.

This act on the part of the Executive Government I did not expect after the publication of your Lordship's letter to Mr. Dallas of the 30th April, for I may venture to say that the explanations and expressions contained in that letter have been considered satisfactory by almost all Americans; and that it was generally considered that there the matter ought to rest.

I inclose a copy of Mr. Marcy's letter to me of the 28th January instant, and a copy of the President's letters-patent of revocation.

I have received no communication in respect to the pleasure of Her Majesty's Government as to my future proceedings.

I have, &c.

(Signed)

CHAS. ROWCROFT.

Inclosure 1 in No. 4.

Mr. Marcy to Consul Rowcroft.

Sir,

Department of State, Washington, May 28, 1856.

FOR reasons which have been communicated to Her Majesty's Government, the President has revoked the exequatur heretofore granted to you, by which you were permitted to exercise the functions and enjoy the privileges of British Consul at Cincinnati.

I herewith send you a copy of the act of revocation.

In consequence of this proceeding, the President has deemed it proper that the pending prosecution against you for the violation of the Neutrality Law of the United States should be discontinued. Orders to that effect have been issued to the United States' Attorney at Cincinnati.

I have, &c.

(Signed)

W. L. MARCY.

Inclosure 2 in No. 4.

Letters-Patent of Revocation of Exequatur of British Consul at Cincinnati.

Franklin Pierce, President of the United States of America,

To all whom it may concern.

WHEREAS, by letters-patent under the Seal of the United States, bearing date the 17th day of August, A.D. 1852, the President recognised Charles Rowcroft as Consul of Her Britannic Majesty at Cincinnati, and declared him free to exercise and enjoy such functions, powers, and privileges as are allowed to the Consuls of the most favoured nation; but, for good and sufficient reasons, it is deemed proper that he should no longer exercise the said functions within the United States:

Now, therefore, be it known that I, Franklin Pierce, President of the United States of America, do hereby declare that the powers and privileges conferred as aforesaid on the said Charles Rowcroft are revoked and annulled.

In testimony whereof I have caused these letters to be made patent, and the Seal of the United States to be hereunto affixed.

Given under my hand at the city of Washington, the 28th day of May, A.D. 1856, and of the independence of the United States of America the 80th.

(Signed)

FRANKLIN PIERCE.

By the President.

(Signed)

W. L. MARCY, *Secretary of State.*

No. 5.

Mr. Crampton to the Earl of Clarendon.

My Lord,

London, June 19, 1856.

IN compliance with your Lordship's desire, I proceed to submit to you a few observations in regard to some of the statements made, by the United States' Government, in a despatch dated May 27, addressed to Mr. Dallas, being the reply of that Government to your Lordship's note to Mr. Dallas, of the 30th of April last, upon the subject of alleged recruitments for Her Majesty's service in the United States.

This I was unable to do at an earlier period, from the fact that no copy of Mr. Marcy's despatch and its accompanying documents was communicated to me by the United States' Government, with Mr. Marcy's note to me of the 28th ultimo, by which I was informed that, for reasons that would be explained to Her Majesty's Government, the President of the United States had come to the determination to discontinue his official intercourse with me as Her Majesty's Representative.

I would also remark, that Mr. Marcy's note was not delivered to me in time to enable me to make even the fact of my having received it known to your Lordship, until my recent arrival in this country.

It is with unfeigned satisfaction that I observe, from Mr. Marcy's despatch, that the United States' Government now expresses itself satisfied with the assurances contained in your Lordship's despatch to Mr. Dallas, and that the charge of having violated the municipal laws of the United States, as well as the general principles of international law, by recruiting within the territory of the United States, is no longer urged against Her Majesty's Government as a cause of complaint.

Such being the satisfactory result of Mr. Marcy's last communication, it becomes a matter of secondary importance to determine in how far the acts and intentions of the individual officers of Her Majesty's Government who are still the objects of the censure of the Government of the United States may have been misjudged or misrepresented. A tacit admission of the justice of such a censure would, no doubt, conveniently dispose of the whole question as between the two nations, while a continuance of the discussion would tend to prolong or to revive feelings of national irritation, which it is most desirable to avoid.

I am not surprised, therefore, although I am deeply pained to observe, that many persons, even in this country, are disposed to adopt, with more or less of qualification, the unfavourable views put forward by the United States' Government, in regard to the conduct of Her Majesty's Consuls at New York, Philadelphia, and Cincinnati, and of myself, by which the whole of the responsibility for the misunderstanding which has unfortunately arisen between the two Governments has been thrown upon us; and that without waiting for any comments or reply on our part to this imputation, and, in general, without the least reference to the statements which we have already made in reply to previous imputations of the same nature.

I do not apprehend, however, that it would be a matter of indifference to Her Majesty's Government that the humblest individual in Her Majesty's service should suffer injustice, come from what quarter it may; nor do I imagine that, even supposing that some errors of judgment or miscalculation of events should be justly laid to their charge, Her Majesty's Government, or any considerate or unprejudiced person in this country, would be disposed to impute more, though they might not feel justified in imputing less, of blame than the occasion called for.

It is under this impression that I venture to offer a few remarks to your Lordship, in regard to the personal censure which the United States' Government have now thought it expedient to pass upon Her Majesty's Consuls and myself, with reference to the part which we have taken in furthering the wishes of Her Majesty's Government, by procuring from the United States the aid of such persons as, under the provisions of the Foreign Enlistment Act, were willing and desirous to serve under the standard of Great Britain, in the then existing war against Russia.

The principle which Mr. Marcy persists in applying to the acts of Her Majesty's Agents, though he has abandoned it as a ground for complaint against

Her Majesty's Government, is to be found stated in Mr. Marcy's despatch of December 28, and is to this effect :—

"This Government maintains that *in every instance where a person, whether a citizen or a foreigner, has been brought to the determination to leave the country for the purpose of entering into a foreign service as a soldier or sailor, by any inducements offered by recruiting agents here, the law of the United States has been violated.*

"There certainly can be no doubt of the violation of the law of the United States in every case where one party—the *recruit*—has been *induced by the terms offered to him* actually to leave the United States for the purpose of entering into foreign military service, and the other party has furnished the means and borne the expense of taking him to a foreign depôt in the expectation that he would consummate the act by an enlistment."

Now, my Lord, I submit that this principle cannot be reconciled with those maintained by Her Majesty's Government, and that if Mr. Marcy is content to waive, if not abandon, his view of the matter, so far as Her Majesty's Government is concerned, he cannot reasonably enforce it against the Agents of that Government acting under its instructions.

And yet this is what Mr. Marcy has done ; for he has reproduced against those Agents, without distinction, the evidence by which he sought to convict them of a violation of the Municipal Law, and that by which he sought to convict them of a violation of the Law of Nations ; and he has, in his present despatch, fallen into the same method of reasoning which, as I have already pointed out, he employed in former communications, namely, he has designated indifferently every act of the Agents of Her Majesty's Government for availing themselves of the services of persons residing in the United States as "*recruiting in the United States,*" or as "*part of a scheme of recruiting in the United States,*" thereby begging the whole question under discussion.

In order to sustain the charge against Her Majesty's Agents of having violated the Municipal Law, Mr. Marcy resorts to a reiteration of his implicit belief in what he calls the unimpeached and unimpeachable testimony of Messrs. Strobel and Hertz, adding, however, that this evidence forms but a small part of that upon which he relies, and that there are numerous acts of mine and of Her Majesty's Consuls, "*undenied and undeniable,*" which confirm it. Mr. Marcy has not stated to what acts he alludes, but if they are acts by which I am supposed to have recruited soldiers for Her Majesty's service within the United States, or "*hired or retained,*" in the sense of the Act of Congress of 1818, persons to go and be recruited elsewhere, or authorised other persons to do those acts, I do deny them. If they are acts by which persons were informed of where and on what terms they would be received into Her Majesty's service in British territory, or by which aid and assistance was afforded to them to reach that country, I do not deny that acts of that sort were authorised by me ; but I maintain that such acts were neither illegal nor a violation of the sovereignty of the United States. As to invitations or inducements, I never offered them to anybody, although it appears that I might legally have done so ; for I cannot agree with Mr. Marcy, that the offer of any inducement short of hiring or retaining, and that by a contract which would, if not rendered illegal by the Act of 1818, be binding, would constitute a violation of the law, and, consequently, of the sovereign rights of the United States.

I am far from seeking to deny to the Government of the United States the right of interpreting the laws of the United States ; but I cannot subscribe to the doctrine that the Executive alone has a right to interpret the law. Every act done or authorised by me is supported by decisions of the Judiciary in which the President himself could not refuse to acquiesce in any case in which, either in his official or private capacity, he might be concerned.

The decisions in question are as follows :—

Judge Kane at the trial of Hertz and Perkins at Philadelphia on the 22nd of May, 1855, says, "I do not think that the payment of the passage from this country of a man who desires to enlist in a foreign port comes within the Act ;" and "in the terms of the printed proclamation there is nothing conflicting with the laws of the United States." In the case of the *United States v. Wagner*, tried before Judge Ingersoll at New York, the Judge charged the jury as follows : "Any resident of the United States has a right to go to Halifax with the intent

Government or any of its officers was, or had been, in any way concerned in sending agents into the United States to recruit therein, or to use any inducements for that purpose. Nor did he ever notify me that he was taking, or intended to take, any part in furthering such proceedings. Such a communication, timely made, would probably have arrested the mischief at its commencement. If he had then apprised me of the system of recruiting which had at that time been already arranged and put in operation within the United States by British agents, and under his superintending direction, he would have been promptly notified, in the most positive terms, that such acts were contrary to the Municipal Law, incompatible with the neutral policy of the country, a violation of its national sovereignty, and especially exceptionable in the person of the Representative of any foreign Government. Mr. Crampton admits that I specially warned him against the violation of our Neutrality Laws, but blames me now for not then stating to him that my construction of that Law differed from his own; but no such difference of opinion was then developed.

Mr. Crampton on that occasion manifested a coincidence in the opinion as to the provisions of that law which I then held and have since fully disclosed. He called upon me to show a letter which he had written on that day to the Consul at New York, "disapproving the proceedings of a Mr. Angus M'Donald, because I [he] thought those proceedings would or might be taken to constitute a violation of the Act of 1818"—the Neutrality Law of the United States. What were the proceedings of Mr. M'Donald which Mr. Crampton thought might constitute a violation of our neutrality? The simple issuing of a handbill, specifying the terms on which recruits would be received at Halifax into the Queen's service.

This opinion of Mr. Crampton ascribes as much stringency to our neutrality Acts as has ever been claimed for them by the Government or Courts of the United States. I had then no suspicion, nor did Mr. Crampton give me any cause to suspect, that he was acting or intended to act upon an interpretation of that law which would justify the act of M'Donald, which he then condemned, and make that law but little better than a dead letter. I could not but suppose that he viewed it in the same light as Lord Clarendon did when he wrote his despatch to Mr. Crampton of the 12th of April thereafter, in which his Lordship declared it to be "not only very just, but very stringent."

To show that I was not mistaken in this respect, I quote a passage from a letter of Mr. Crampton, dated 11th of March, to Sir G. le Marchant:—"Any advance of money by Her Majesty's Agents or others in the United States would constitute an infraction of the Neutrality Law." The depositions which accompany this despatch, made by some of the same persons who have furnished the British Government with affidavits to impeach Strobel and Hertz, prove conclusively that Mr. Crampton did disburse various sums of money to agents employed in recruiting within the United States.

It was, indeed, apprehended by me at that time that violations of that law would ensue. It could not fail to be seen that any organised scheme of a foreign Government to draw recruits from the United States, though by mere invitation, would necessarily tend to and result in violations of the Municipal Law. So decided was my belief in this respect, that measures had already been taken by me, in behalf of this Government, as it happened, upon the very day of the interview with Mr. Crampton, to institute prosecutions against persons engaged in this business in New York and Philadelphia, and I then notified Mr. Crampton of that fact, as he expressly admits in the report of that interview made to his Government.

An attempt is made to deduce an excuse for Mr. Crampton's course in the business of recruiting in this country, from the alleged fact that he communicated to me on that occasion the arrangements which had been made for that purpose, and that I did not disapprove of them otherwise than by insisting upon the observance of the Neutrality Law of the United States. This allegation is hardly consistent with Mr. Crampton's own statement of what then passed. In the defence of his conduct recently sent by him to his Government, he makes admissions inconsistent with the allegations that there was no concealment on his part, and that the recruiting arrangements were communicated to me. He says that:—

"It is perfectly true that I did not enter into any details of the means which were to be adopted by Her Majesty's Government to render available the services

of those who tendered them to us in such numbers. There seemed to be obvious reasons for abstaining from this, even if it had occurred to me. I should have been unwilling to do anything which might have borne the appearance of engaging Mr. Marcy in any expression of favour or approbation of a plan favouring the interest of one of the parties in the present war. All I could desire on his part was neutrality and impartiality."

His reasons for withholding from me the details of the enlistment system—the most important part of it for this Government—are not satisfactory. If Mr. Crampton believed that what he was doing, or intended to do, in the way of recruiting was right, he could have had no reluctance to communicate it to me, for his instructions required him to make that disclosure. Acting in due frankness, and with a proper regard for the dictates of international comity, Mr. Crampton should, it would seem, have disclosed to me all the measures intended to be pursued within the United States by the agents of his Government, including himself, in execution of the Act of Parliament for raising the Foreign Legion. Nay, he was expressly commanded by his Government to practise no concealment with the American Government on the subject. If he had obeyed these orders, all misunderstanding between the two Governments would have been prevented.

Mr. Crampton was the more imperatively called upon to make full explanations on the subject, not only because he was commanded by his Government so to do, but for the further reason that, immediately after the breaking out of the war between Great Britain and France on the one hand, and Russia on the other, he had, by an official note addressed to me, invoked the efforts of this Government to enforce upon the inhabitants of the country (citizens or others), the necessity of observing the strictest neutrality towards the belligerent parties, and especially to enjoin upon them to abstain from taking part in armaments for the service of Russia or in "any other measure opposed to the duties of a strict neutrality." To this application the Undersigned, by express direction of the President, replied, declaring that the United States, "while claiming the full enjoyment of their rights as a neutral Power, will observe the strictest neutrality towards each and all the belligerents." Reference was made to the severe restrictions imposed by law not only upon citizens of the United States, but upon all persons resident within its territory, prohibiting the "enlisting men therein for the purpose of taking a part in any foreign war." It was added "that the President did not apprehend any attempt to violate the laws, but should his just expectation in this respect be disappointed, he will not fail in his duty to use all the power with which he is invested to enforce obedience to them."

In view of this formal and solemn appeal by Mr. Crampton to the American Government, and of the assurance he received of its determination to maintain strict neutrality, it was not for a moment suspected that Mr. Crampton could misunderstand this purpose, or believe that he would be permitted to set on foot and execute, for a period of five consecutive months, a systematic scheme to obtain military recruits for the British service in the United States.

That Mr. Crampton did enter most deeply into this scheme is proved by the evidence already submitted to Her Majesty's Government, but is still more conclusively established by the additional proofs which accompany this despatch. Whatever detraction from the value of the testimony against Mr. Crampton may result from the attempt to discredit Strobel and Hertz, is much more than made up by the additional proofs now adduced. This body of strong cumulative evidence confirms the President's former conclusion as to the complicity of Mr. Crampton and the British Consuls at New York, Philadelphia, and Cincinnati, in the illegal enterprise of recruiting soldiers for the British army within the United States, and the President does not doubt that when this new evidence shall be brought under the consideration of Her Majesty's Government it will no longer dissent from this conclusion.

The gratification which the President feels at the satisfactory settlement of the Recruiting Question, in so far as respects the action of the British Government itself, has induced him to examine the case again with the view to remove, if possible, from his mind the personal objections against Her Majesty's Minister and Consuls. This examination has not produced that effect; but, on the contrary, has strengthened his conviction that the interests of both Governments require that those persons should cease to hold their present official positions in

the United States. He sincerely regrets that Her Majesty's Government has not been able to take the same view of the case, and to comply with his request for their recall; but it has not consented to do so.

If, in the earnest desire to act with all possible courtesy towards Her Majesty's Government, the President could have suspended his determination in the case, in order to submit the new testimony which he is confident would have been found sufficient to induce compliance with his request for the recall of the British Minister, he is precluded from any such thought of delay by the exceptional character of the despatches of that gentleman, copies of which, having been recently laid before Parliament, have thus come to the knowledge of this Government, and which are of a tenour to render further intercourse between the two Governments through that Minister alike unpleasant and detrimental to their good understanding. The President has, therefore, been constrained by consideration of the best interests of both countries reluctantly to have recourse to the only remaining means of removing, without delay, these very unacceptable officers from the connection they now have with this Government.

This course has been deemed necessary on account of their unfitness for the positions they hold, arising from the very active part they have taken in getting up and carrying out the system of recruiting which has been attended with numerous infractions of our laws, which has disturbed our internal tranquillity, and endangered our peaceful relations to a nation with which this Government is most anxious to maintain cordial friendship and intimate commercial and social intercourse. He has therefore determined to send to Mr. Crampton, Her Majesty's Diplomatic Representative, his passport; and to revoke the exequaturs of Mr. Mathew, Mr. Barclay, and Mr. Rowcroft, the British Consuls at Philadelphia, New York, and Cincinnati.

George M. Dallas,
&c. &c. &c. London.

I am, &c.
(Signed) W. L. MARCY.

List of accompanying Papers.

Proceedings before Commissioner Brigham.

Proceedings before Commissioner Betts.

Affidavits of Louis Celage, Ignatius Majewski, Anthony Bukaty, and Leon Sierawski.

Affidavits of Julius Parkus, Oscar Cromrey, and William Schumacher.

Affidavit of William Schumacher, March 12, 1856.

Affidavit of Oscar Cromrey, March 12, 1856.

Affidavit of Louis Kazinski.

Affidavits of Oscar Cromrey and William Schumacher, May 23, 1856.

Affidavit of Morris Kieckbach, June 18, 1855.

United States' Commissioner's Office, before Joseph Bridgham, Esq.

The United States	}	J. B.
<i>v.</i>		
Hans P. Jorgensen,		John McKeon.
Frederick C. M. Carstensen, and		Enlisting in foreign service.
Augustus M. Thorman.		W. R. Beebe.

July 30, 1855.—Mr. Beebe appears, and waives the production of the warrant against Jorgensen, and consents to proceed against the three defendants above named.

Anthony Rosenbaum, sworn.—I knew Carstensen; have known him for three months. I have had something to do with hiring men to go to Halifax. I received a letter from Mr. Schumacher to Carstensen; I did not read the letter; Mr. C. read the letter in my presence; he did not tell me the contents, but

several lines of it, in which Mr. Schumacher said he (Carstensen) should receive me well; that he should have me paid on the same day of my arrival. I told him that Mr. Schumacher gave that letter as an introduction to Mr. Carstensen; that I had to deliver my men which I brought over to Mr. Carstensen, who would pay me four dollars a-head for them. Mr. Carstensen said he was glad that we had brought over such a good number; that they should be shipped for Halifax the same day; and that I should be paid in a few hours. I went with Mr. Thorman to Mr. Carstensen to see Carstensen. Mr. Carstensen then got up and went with us to the office of Sprague, Soulé, and Co., where we left the men. Mr. Carstensen said he was the only authorized person in Boston to ship the men for the Governor in Halifax; he said that he was a Captain in the English Foreign Legion, and showed me a written authority (telegraphic despatch), which said nothing but "apply to Clark and Jones; all right." Mr. Carstensen said it was an answer to a despatch he had sent up to Halifax to Sir Gaspard le Marchant; that this was in consequence of a dispute with Mr. Keitchbech, who himself pretended to be the only authorized agent to ship men. These men, he said, were for the Governor of Halifax, for the men to enlist in the English Foreign Legion. This occurred at Boston. (Counsel for the defendants objects to all transactions which occurred at Boston.)

Carstensen and I then went to the office of Sprague, Soulé, and Co., and counted the men: there were twenty-six men, all brought by Thorman, Weitchen, and myself. He then spoke to one of the firm—I don't know which—and afterwards told me that these could be shipped at once in a vessel then lying at T Wharf, called the "America." All the men then left on board the vessel. I saw the men on board, and Carstensen, Thorman, and Weitchen went on board with them. Mr. Carstensen then spoke to the captain of the vessel, and asked him whether he would make any arrangements to supply them with victuals for the passage. We then waited on the wharf for nearly three hours for the vessel's departure. Before she left, a clerk for Sprague, Soulé, and Co., went on board with Carstensen, Thorman, Weitchen, and myself, again to count the men and have their names put down on a list. Then Mr. Keitchbech came up and claimed all the men, telling me that Mr. Carstensen had no authority (this was in Carstensen's presence) to pay me one dollar. I knew Carstensen by the name of "Milford" also. Then Carstensen took Keitchbech aside, and, after a conversation of about half-an-hour, Keitchbech came up to me, telling me that he was mistaken, and that he had now himself seen the authority of Carstensen. Carstensen then told me we had better leave the place, because one of the men which was shipped was intoxicated and made a great noise, and would be very likely to draw the attention of the police towards us. At that moment the vessel started, and when it was near out of sight we all went back to the office of Sprague, Soulé, and Co. Mr. Carstensen requested me to assist him (Mr. Thorman was with him at the time) in writing receipts for the agents—Thorman, Weitchen, and myself as agents—for bringing men from New York to be shipped in Boston for Halifax. He also wrote three lists of all the men. I inquired of Mr. Carstensen what these three lists were for. He said one had to remain with the firm of Sprague, Soulé, and Co., another to be sent to the Governor at Halifax, and the third was for himself. He waited for another hour, and then Mr. Carstensen paid me 48 dollars for twelve men, for which I had to sign a receipt. Then Mr. Carstensen, Thorman, Weitchen, and myself, and Keitchbech, all went to Kipp's boarding-house, in Washington-street, and had champagne, &c., which was paid for by Mr. Carstensen. We then all went for the railroad dépôt, accompanied by Carstensen and Keitchbech. Mr. Carstensen told me that Mr. Keitchbech was working for the Polish officer's regiment in Halifax; that he (Carstensen) worked for the German-English Foreign Legion; that he would get me a commission in the Legion if I would only work for him. He then gave me a letter unsealed to Major Wise, in New York.

(Adjourned to 10 o'clock A.M. to-morrow.)

July 31, 1855.—Examination of *Anthony Rosenbaum* continued.—We had half-an-hour left before the train started, and we walked back again to Mr. Carstensen's residence. Mrs. Carstensen there informed us that he had received a telegraphic despatch from New York, informing him that Schumacher,

Cromley, and Parker, had been arrested for enlisting men for Halifax. We then went back to the dépôt, where Mr. Carstensen handed me another letter to Mr. Schumacher. He told me again to stick to his party, and only be active in New York for Schumacher and Cromley, who, in conversation with him, wanted to send as many men as they could possibly get, to show that they could do more than the Polish party. We then left for New York. Thorman was by all the time.

When I came to New York, I at first went to Eldridge-street Gaol, delivered my letters to Mr. Schumacher, who asked me whether Carstensen had paid me for the men he sent him by me. He requested me to call on Major Weiss, and to tell him that they wanted to see him, to get out on their bail. I told Mr. Schumacher that I had a letter myself to Major Weiss, from Mr. Carstensen, but that I did not know his address. He referred me to the English Consul, who would furnish me with the address. I went to the English Consul.

The District Attorney offers to show, by conversation at the British Consul's office with Mr. Stanley, the connection of Stanley, Schumacher, Cromley, and Carstensen, with the enlisting, and hiring, and retaining of men in the city of New York.

The counsel for the defendants objects that nothing that transpired at the Consul's office can be used to charge Carstensen at Boston.

(Adjourned to Thursday at 10 o'clock A.M.)

Thursday, August 2, 1855.—Examination of Rosenbaum continued.

Submitted.

August 6, 1855.—Discharged.

Charge of Enlisting for the Crimea.—Complaint dismissed.

The United States *v.* Carstensen and others.

August 2, 1855.—The State's evidence, Anthony Rosenbaum, was cross-examined at considerable length, and availed himself of the privilege of declining to answer certain questions. He said he had been twice arrested before he communicated the facts to the District Attorney; he was under arrest at the time he made the communication; had been in prison about fourteen days; had no written contract with the men he took to Boston; gave them no money. I am a native of Hamburg. I am in this country about sixteen months; went from Hamburg to England, and then came to New York. I was in England about three years; I was in a great many places in England. I was an artist, and painted likenesses. I was in the commission business in German goods.

Q. Were you not engaged in smuggling in England?—*A.* I decline to answer. I was not in prison in England for that offence.

Q. Did you not run away from England to avoid arrest?—*A.* I object to that. I never was engaged here in the business of smuggling; I was the manager of business for Baldwin and Co., Philadelphia, jewellers.

Q. Did you not, as their manager in importing, defraud the Government?—*A.* I refuse to answer.

Q. Who was Mr. Baldwin?—*A.* A gentleman of my acquaintance.

Q. Were not you Mr. Baldwin?—*A.* I have answered that question before. I cannot be acquainted with myself. I never was in the employment of any emigrant forwarding-house here.

Q. What business have you been in since you came from Philadelphia besides engaging men for the Crimea?—*A.* I refuse to answer. I know the premises 75, Bowery; I never occupied any part of them; I have taken meals there, and paid for them.

Q. Did you ever receive any money that was paid there for the business of the house?—A. No; I never was engaged in the business of keeping girls, or a house of prostitution there, nor at any other place in the city of New York.

Q. Have you ever been engaged in a gambling-house here?—A. I refuse to answer. I know the gentleman present (Mr. Brendt); I never was in partnership with him in the house 75, Bowery.

I, Joseph Bridgham, United States' Commissioner for the Southern District of New York, do hereby certify that the foregoing is a true copy of a portion of the testimony taken before me in the above matter. The notes of the continued examination and cross-examination of Rosenbaum on the 2nd day of August, 1855, being mislaid, are not included in the foregoing written copy, but the substance of the same is contained in the accompanying slip from the "New York Herald."

In witness whereof, I have hereunto subscribed my name and affixed my seal, this 30th day of November, 1855.

(Signed) JOSEPH BRIDGHAM,
United States' Commissioner, Southern District of New York,
Second Circuit.

Proceedings before Commissioner Betts.

The United States *v.* Godfried Wachter.—G. F. Betts, Commissioner:
Enlisting men for the British Army.

May 15, 1855.—District Attorneys, Beebe and Carpenter.

Adolphe Vischoff.—Know Wachter; he kept his place 127, Grand. I was there last Monday week; asked him if he could not give me work; he said "yes;" he had one place to go as farmer from here to Boston, and a place for a foundry. Then he asked me if I would like to go as a soldier from here to Halifax; when I was in Halifax I would get 30 dollars pocket money, and 8 dollars a-month for being a soldier. Then he told me to come back to Grand-street that same day, and he would tell me where the vessel was. He told me then where the vessel was, Pier 2, North river. I was to go from here to Boston, and thence to Halifax in that vessel. Told him that day I couldn't go; would come Tuesday, and had a friend who would come with me; then he told me if I knew more to bring them in. I was to be a soldier, when I got to Halifax, in the English army.

The United States *v.* Wilhelm Schumacher.—Enlisting men for the British service.

The United States *v.* Julius Parkus,—May 15, 1855.—G. F. B.
The United States *v.* Oscar Cromey.

District Attorney calls—

Peter Oswald.—Know Schumacher; was there in the morning, in Chatham-street, No. 53, May 3rd instant, about 8 o'clock; Mr. Thomson, and Mr. Wertz, and Mr. Werner, were talking there about engaging men—some for labouring, and some for the Crimea. A young man was there who they said they had engaged as a machinist to go in a machine-shop near Boston. They wanted me to find out who were enlisting men for the Crimea, and asked me if I would help. I said I would, and went to 130, Liberty-street; there was there, down stairs, a paper man wanted. I then went up stairs and saw Schumacher and Cromey (didn't know his name). A German Canadian, named Harkey, was sitting there; another young fellow—I don't know his name—he used once to be a bar-keeper. I asked: "Is this the place I can get the work?" Schumacher told me yes. I told him I was six months in this country, and I had nothing to do yet, and I was willing to do anything they could give me. Then he said he had no work, but if I would like to go to the Crimea, he would take me as a soldier in the English army; that he would take us from here to Boston; the same day send me to Halifax; may-be we would stay there a couple of months, and

then we go off to the Crimea. Cromey said I couldn't do anything better than go there; so Harkey said; then I said, "I will go." Then he told me to be there at half-past 3; then I came to the district attorney's office; then I went there at half-past 3, in bar-room; ten or twelve were there, all going along, all talked about killing Russians. Then I went to the boat with them—it was then past 4—the boat going to Boston, Pier No. 2. Schumacher went along with us. The first time I was there, they said I should get 30 dollars as soon as I got to Halifax, and 8 dollars a month. I was to be a lieutenant, as I had been in the Prussian service.

Cross-examination.—Am a carver; have been six years in this country, all the time in New York, and twenty-four years old; worked last for Haslow; and was first in this building the third of this month. Had been here two days when I went to Chatham-street. Knew Wertz (he keeps the house), a German. Nobody had employed them to catch them. Johnson went over to 131, Liberty-street; remained outside; went in after. I didn't intend to go to the Crimea. I got no money; put my name down on a paper; they had a list; saw nothing on it but names. I didn't write it on the list; I wrote it on a piece of paper (nothing else on the paper) so that he might see how it was spelt. There was a table in the room; it was a private room in a hotel.

Q.—How much was you to get for finding?

A.—I decline to answer that question. I consider it insulting. I went there because I didn't like to see them enlisting men in that way. I was in that room about ten minutes. Johnson didn't come into the room whilst I was there. I went back then to 53, Chatham-street; nobody went back with me. Johnson went in. Found some men at 53, Chatham-street, and some strange ones; stayed there about two hours; then Wertz says, "Come along, we will go to the City Hall." Went, I think, to Mayor's office; then here. Wertz, Johnson, Wener, and myself, and Hochmund; saw Niven when I came here. McKeon made an affidavit, swore to it; all made affidavits.

They told me to go back there at half-past three. Officers were to be there on the boat. I carried a carpet-bag there; got it at Wertz's house; it was not mine. I did not go up in the office again. Met Schumacher just inside. He says, "We have got about three-quarters of an hour;" if any body came to ask me where we go, not to answer them. He was to go to Boston with us.

I signed nothing: nothing bound me to go. He didn't tell me that if, when I got to Halifax, I didn't like it, I could come back; he said nothing about coming back.

[Adjourned to Thursday, 12 A.M.]

Cross-examination resumed.—I never was there but once. Schumacher didn't tell me his name. I didn't know his name when I made the affidavit. I said nothing about killing Russians at the porter-house. I talked in German when I was in the room. Am a Prussian—not a citizen of the United States; declared my intention five years ago. I was a soldier, sergeant, two and a half years; ran away; never been arrested in this country. Don't know Stoekel, a Russian Consul. Schumacher didn't show me any power he had to hire me. He said he was going along. He said he would give me 30 dollars, and 8 dollars a month; "I will give it," not "you will get it;" that he was to pay it; I knew nothing about government. It is none of your business whether I am to be paid, if the accused are convicted.

Redir.—I went with S. on board the boat. S. had tickets for us all in his hands; he didn't give me a ticket; he told me to stay and see that none of the party went off the boat. I am not to get any money for convicting these men.

Re-cross-examined.—I saw S. buy tickets on board, at the office.

John Cowen.—Am policeman, stationed on North River, between Liberty, Battery-place, and West; that includes the steamboat to Boston. Saw accused once. First time I saw the three together was here after the arrest. Saw Schumacher on Dock-pier 2 once—the third of this month. One of the marshals requested me to come and assist him. After I got there he pointed S. out to me, and wanted me to take charge of him. About half-past four o'clock (steamboat was about to start) I told S. I wanted him to come with me. He asked me where I wanted him to go, and whether it was the chief of police who

had him arrested. I told him I supposed he knew who had him arrested : that he was arrested by one of the United States' marshals. He asked me what for? I told him for inducing men to go from here to Nova Scotia to join the Crimean expedition. He then told me he wanted to see a man that was on the dock to get his money back for the tickets. I told him that I could not wait any longer—that I had to go ; he came along up West-street ; asked me if I wouldn't see and get the money returned for those tickets, and handed me twelve tickets voluntarily himself. I gave them to Joachinsen ; eleven second class, and one first class.

John Jansen.—Know Cromley and Schumacher. There was an advertisement in the newspaper—wanted twenty or thirty young men, (in the German newspaper) at 130, Liberty-street ; went there ; met S. ; asked him if he wanted young men ; he said yes, and referred me to Cromley. He was in the office ; I asked him, do you want young men ? he said yes. I asked him, "where do you send them ?" He said, in the country. I asked in what place ? He said from here to Boston ; from there to Halifax, as soldiers ; from there to the Crimea to the English army. I said I didn't want to go ; I did nothing else. I saw them on the dock when arrested.

Ferdinand Wertz.—Know all three of the accused. I first saw Parkinson at Pier 2 ; asked him where the people were going to, who were engaged for machinists ; he said, to Boston. I asked him why the people were to come at 4 o'clock, as the boat didn't go till 5 ? He said it was better to have them there. At about a quarter before 5 he took the men from Pier 2 to 3—about ten men.

On the 3rd Mr. Oswald was engaged ; I wanted to see him ; I entered in the bar-room, 130, Liberty-street ; Schumacher came in. The hotel-keeper asked me if I wanted to go to the Crimea ; I asked him for what ; he said, "These people are all going there that are in the bar-room."

That afternoon I went with the marshals down on the pier ; saw S. talking with Oswald, and when they were arrested.

In the bar-room at Liberty-street, men were drunk, and squaring-off, and saying, we are going to fight the Russians. S. came down with that troop, and Oswald too.

Cross-examined.—I never heard either of accused engage any man to the Crimea. I kept the place 53, Chatham.

[Adjourned to Tuesday, 9 A.M.]

May 23, 12 M.—James Hann, an acquaintance of mine, introduced me to Mr. Parkus, at 26 (I believe), Mott-street, at Harns' boarding-house, telling him that perhaps, on getting acquaintance, I should have a mind to join their corps. Hereupon he conducted us to his (Parkus') private room upstairs, asking me there whether I had been a soldier before. I said, "Yes ; my degree was a lieutenant in the Prussian militia (Landwehr)." "Well, Sir, if so, you may depend to be at least a serjeant in the British army ; then you get for bounty 7*l.* or 8*l.* at Halifax." I told him I would take this into consideration. "If you prefer to be an agent, we get 3 dollars for each man at Boston. You may deliver them yourself, or leave them to us. Come this evening to Pier 3 ; I want to introduce you to one Major Weiss." I said, "I will see ; when will I want you to-morrow ?" He said, "You can't find me here, I move every other day ; you will find me at Lewis-street, in the basement." I forget the number. He showed me a document in proof of his having been an officer in Germany.

Cross-examined.—I have been here about eight years ; have not become a citizen.

Redir.—I know nothing about Schumacher or Cromey.

Louis Bamberger, sworn as interpreter.

Augustus Werner (sworn through Bamberger).—Know Parkus—the other two only by sight. I read, May 1st, in German newspaper, called the "Staats Zeitung," that, at 118, Grand-street, mechanics were wanted. I went there ; found a young gentleman, whom I asked if he wanted engineers ; he replied, yes. Wanted to know if Werner had money to carry him to Boston ; I said the advertisement stated that passages were free. He then said if I would

city of Mr. Crampton and the British Consuls at New York, Philadelphia, and Cincinnati, in the illegal enterprise of recruiting soldiers for the British army in the United States."

I have shown that when Mr. Marcy receives special denials, he objects, and wants general; and when the latter sort are presented to him, he repudiates them because they are not special. As it is too late for me now to study to please him, I will avoid the great prolixity which an examination of his "new evidence," for the purpose of giving my contradiction to the depositions severally as regards the portions of them which relate to me, would occasion, and will content myself with declaring that one and all of the material allegations which they contain affecting me are utterly untrue.

(Signed) ANTH. BARCLAY.

No. 7.

Consul Mathew to the Earl of Clarendon.—(Received June 23.)

My Lord,

Philadelphia, June 9, 1856.

I HAVE the honour to inform your Lordship that I have received a communication from Mr. Marcy, United States' Secretary of State, intimating to me, by order of the President, the withdrawal of my exequatur as Consul for the State of Pennsylvania.

I beg to inclose a copy of Mr. Marcy's letter, and of my reply to it.

This act, on the part of the United States' Government, I will not hesitate to say, took me wholly by surprise: the universal sentiment of admiring concurrence attendant throughout the United States on your Lordship's note of the 30th of April to Mr. Dallas, led me to believe in the conciliatory settlement of the point at issue, or, at least, that any ulterior steps would arise from other causes, and would not, by their extension to Her Majesty's Consuls, so clearly stultify the tone of goodwill assumed in the rest of Mr. Marcy's rejoinder.

The independent press and public opinion, generally, have not failed to point out the supposed objects of this offensive and uncalled-for course of the United States' Administration.

I will not intrude upon your Lordship any repetition of my remarks in my reply to Mr. Marcy on the points which might be intended to apply to me in his despatch of the 27th of May to Mr. Dallas. But I may be permitted to express the gratification given me by the numerous testimonies of regard evinced towards me in this community.

Your Lordship will perceive, by the inclosed extract from a popular journal of this city, the just and indignant feeling Mr. Marcy's want of due appreciation of the evidence of some of the most upright of its citizens has called forth.

In the desire of lessening, as far as possible, the commercial inconvenience created by the act of the United States' Government, I have placed in charge of this Consulate, subject to your Lordship's approval, Mr. John G. Dale, an English merchant, of the highest character, resident here, a director of the Philadelphia and Liverpool Steam Company.

I propose embarking within a few days for England.

I have, &c.

(Signed) GEORGE B. MATHEW.

Inclosure 1 in No. 7.

Mr. Marcy to Consul Mathew.

Sir,

Department of State, Washington, May 28, 1856.

FOR reasons which have been communicated to Her Majesty's Government, the President has revoked the exequatur heretofore granted to you, by which you were permitted to exercise the functions and enjoy the privileges of British Consul at Philadelphia.

I herewith send to you a copy of the act of revocation.

I have, &c.

(Signed) W. L. MARCY.

Inclosure 2 in No. 7.

Consul Mathew to Mr. Marcy.

Sir,

Philadelphia, June 9, 1856.

I HAVE the honour to acknowledge your letter of the 28th ultimo, intimating to me the revocation of my exequatur as Consul of Her Britannic Majesty in the State of Pennsylvania, by order of the President of the United States.

The publication on the day following of your despatch to Mr. Dallas gave me cognizance of the reasons assigned for this step, upon which I beg to be permitted, with great respect, briefly to remark.

I should have done myself the honour of replying at once to your communication, but I was desirous of ascertaining, first, if the further documentary evidence, stated to have been laid before Congress, in any way referred to me. I regret greatly I have failed in my endeavours to this end, for it would have been more easy to refute any ungrounded imputations while I was in the United States; and I cannot but recollect that one of the chief deponents to the disparagement of Mr. Crampton and Mr. Howe at Hertz's trial (a German of the name of Burghthal who could not speak English) had never spoken to either of the gentlemen with whom he testified he had held confidential conversations.

It would be unbecoming in me to make any observations on the general bearing of an act which appears to be scarcely compatible with the assurance that the "unequivocal disclaimer of Lord Clarendon is satisfactory to the President," and that "the ground of complaint, so far as regards Her Majesty's Government, is removed;" and which presents the same appearance as would the prosecution of a servant for a supposed trespass while driving his master's carriage, after the acceptance of that master's conciliatory explanations.

I desire to confine myself to the allegations to my personal prejudice; and I find with surprise and mortification, from your despatch, that the President still believes the British Consuls named (of whom I am one) to "have been deeply implicated in proceedings contrary to the law and sovereign rights of the United States," and that their denials are deemed "special," and not to "traverse all the allegations against them."

I must presume, Sir, so far as I am concerned in the foregoing sentences, that the language of my despatch to Mr. Crampton of the 3rd of March, communicated by the Earl of Clarendon to the Government of the United States, has escaped the President's notice.

I stated—"I beg leave, Sir, to deny explicitly, and in every sense, the accusation thus brought against me; and to assure your Excellency that my course, since I have held a Consular appointment in the United States, has been in all things guided by a careful observance of the laws of the country."

Nor was this denial confined to words, for it was amply corroborated by the concomitant testimony of Mr. B. Rush, Mr. R. Kane, Mr. Sharwood, Mr. Dobbyn, and other residents in this city, of unblemished honour and reputation.

The statements of these gentlemen were published in the British Parliamentary Blue Book, to which, I apprehend (from the reference made in your despatch to Mr. Crampton's letter of the 14th March to Sir Gaspard le Marchant), the United States' Government have had access.

They have also been published by the "National Intelligencer" and the "Philadelphia Bulletin" (of which last I beg to inclose a copy); and you will find, Sir, that they fully and wholly refute on irrefragable evidence each and every statement made by Hertz (my sole accuser) to my prejudice, and in several instances convict him of gross perjury, which his own handwriting might suffice to do.

Unless therefore, Sir, the evidence of his own letters, and of his receipt, and the direct testimony of these gentlemen are discredited, it is impossible to subscribe to your remark, that, whatever may have "been the character of Hertz, it by no means follows that he did not testify to the truth."

I know not on what ground the affidavits relative to the character of Hertz can be termed "*ex parte* affidavits," and as "detailing matters mostly on hearsay evidence."

The (so-called) "Confession" of Hertz—by which I was accused, without the possibility of reply or refutation—presented to the Court by his prosecutor with the hitherto successful object of escaping any sentence, may truly be called an "*ex parte* affidavit;" but the sworn statements of three most respectable firms in this city (Messrs. Craig, Scherr, and Butler), whom Hertz had defrauded, and who, from dearly-bought experience, knew him to be wholly unworthy of belief, cannot surely be classed under that appellation.

If further notice of the character of this precious witness be needed, I may add that within the last month he has been obliged to give bail to answer a charge of swindling, and another of robbery to the amount of 240 dollars, and that he has recently been arrested for a flagrant forgery.

I am not, Sir, amenable to the charge that the "continuous violation of the law proceeded within their respective Consulates, month after month, under their eyes, not only without any apparent effort on their part to stop it, but with more or less of their active participation therein."

I never heard of any proceedings relative to the subject in Philadelphia, excepting those with which Hertz was connected; and in the end of March I expressed to Her Majesty's Minister, by note, my unfavourable opinion of this man, of his transactions, and their probable consequences. The reply of Mr. Crampton, dated April 2nd, was placed by me in the possession of Mr. Rush, whom I had conversed with on the subject, and is quoted in Mr. Rush's statement, to which I beg to refer you.

Nor had I, as you appear to suppose, the means and opportunity of refuting unfounded accusations.

I could not appear as a witness in behalf of Hertz, whom I believed to be designedly guilty, and whom I had, from the commencement of his operations, suspected of being employed and paid to infringe the law, and to implicate British functionaries; and yet this was the sole mode left to me, under Mr. Attorney-General Cushing's letter, for self-vindication.

I have felt it due to myself thus briefly to notice the points in your despatch which may be supposed in any degree to apply to me.

The daily testimonies of regard tendered to me in this community are the more deeply gratifying, that they assure me I am not an unacceptable functionary.

I draw from them, further, the confident belief that the citizens of Philadelphia do not concur in the action of the Federal Government which has terminated my official duties in the United States.

I have, &c.

(Signed)

GEORGE B. MATHEW.

Inclosure 3 in No. 7.

Extract from a Philadelphia Newspaper of May 31, 1856.

MR. MATHEW, THE BRITISH CONSUL AT PHILADELPHIA.—We yield to none in love of our country. We yield to none in our efforts to treat others, especially foreigners, occupying high official position, with the respect and courtesy which may be due to them as individuals or as representatives of other nations. But our patriotism is not so passionate as to blind our judgment, or shield us from the pangs of regret and mortification if we find our Government guilty of gross injustice, or giving way to party malignity on questions which involve the honour of the nation; nor, on the other hand, is our politeness so very benevolent that we are indifferent to the misconduct of any official, or are loth to condemn it, no matter what his station. The circumstances just now connected with the gentleman whose name is at the head of this article, test most fully our right to speak of ourselves as we have just done. Mr. Mathew, during his sojourn with us in Philadelphia, has, by his kindly bearing, his intelligence, and his integrity, commanded the esteem and respect of our citizens, and won for himself, in private circles, warm and sincere friends. Except this charge of Hertz', he has borne an unblemished character. Except it, he has always shown a careful regard for the laws of our country, and the most anxious desire to cultivate and strengthen the good feelings between the people of the United States and their kinsmen across the water. Nevertheless, if he has failed in his duty, and has trampled under foot our laws, we are bound to speak truthfully concerning him. As to the course pursued by the Administration on the general question we have already expressed our opinions, and shall not repeat them now. Suffice it to say, that Mr. Marcy's last despatch merely confirms the views uttered some days ago. At present, we shall confine ourselves to Mr. Mathew's case, and examine how far the complaints of injustice and unfair dealing preferred by his numerous mercantile and personal friends, are founded on fact.

The evidence of Mr. Mathew's alleged complicity in the enlistment business is to be found in Hertz's confession, at pages 211, 214, Senate Doc., No. 35, and is substantially a statement that Mr. Mathew paid Hertz 300 dollars, for which Hertz gave a receipt. He says, "I wrote a receipt in these words:—

"Received, Philadelphia, 14 March, 1855, of Mr. B. Mathew, 300 dollars on account of the Honourable Mr. Howe."

Now this statement contains two errors. 1. Mr. Mathew's name is *George*; 2. The original receipt, whose contents are so positively sworn to by Hertz, does *not mention Mr. Mathew's name at all*. And yet this, we believe, is *all* the evidence on which the Administration rests as proving facts to justify its course towards an otherwise unoffending individual.

Yesterday, a cotemporary printed the letters and affidavits of numerous individuals of Philadelphia, well known to their fellow-citizens as persons of character and veracity, Mr. Rush, Mr. Dobbyn, Mr. Kane, Mr. Butler, Mr. Craig, and Mr. Sharwood, which contradict, in the most direct manner, and in the most particular detail, all and every statement of Mr. Hertz, and leave no doubt in the mind of any reader that Hertz's statement was, like the man himself, totally unworthy of belief. These letters and affidavits were submitted to the Administration, and yet, with them before him, Mr. Marcy virtually says, he still takes the word of a convict—for such was Hertz at the time he made his statement—rather than the assurances of men known and respected in this community, some of them known to Mr. Marcy himself, personally, as reputable and honourable gentlemen.

This is a plain brief statement of the facts. We do not wonder, therefore, at the indignation so generally felt throughout our city at the course pursued toward the Consul here. Could we discover any infringement of the peace and dignity of our country in Mr. Mathew's past conduct, he should have our severest censure, and the Government our support. But under the circumstances disclosed by the whole correspondence and evidence in this case, nothing is left for us but to deplore a course of action calculated to compromise the American people, by showing that its Administration can stoop to persecute

individuals when neither national honour nor interest is involved, and can wrest the meagre statements of the basest creatures to furnish the ground for its proceeding.

No. 8.

Consul Mathew to the Earl of Clarendon.—(Received June 23.)

My Lord,

Philadelphia, June 10, 1856.

THE following appeared in the "Daily Pennsylvanian," (the supposed Government organ in this city,) on the 27th of May. It was also published in the "Evening Argus."

"STATEMENT OF MR. HENRY HERTZ.—Mr. Henry Hertz hereby makes his statement in relation to several of the affidavits taken by the agents of the British Government, and copies of which were transmitted by Lord Clarendon to the American Secretary of State.

"As to the affidavit of W. Schumacher, New York, 24th November, 1855, Hertz says, that Schumacher was a recruiting agent for the British Government in New York. The Mr. Loeb referred to in the affidavit was arrested in this city the same day with Hertz. Hertz denies the truth of affidavit, and asserts that when Schumacher made it he was in the employ of the British Government.

"As to the affidavit of M. A. Thoman, Philadelphia, November 2, 1855, Hertz says that Thoman, formerly a paper carrier here, had his head-quarters in Boston, as recruiting agent for the British, was obliged to leave there to escape criminal proceedings, and was in the British employ to the last; that Sigismund was in no other position in the distillery at Coates Street, No. 142, than as a common labourer, employed mainly to attend the stills.

"As to Thoman's second affidavit, of the same date, Hertz says, that if he had been paid by Russian agents, as is alleged, he would have given evidence sooner than he did, and not have waited until he was convicted, and then deserted by the English officials.

"As to P. R. Scherr's affidavit, Philadelphia, 7th March, 1856, Hertz says that he never was in the employ of P. R. Scherr, but in that of E. N. Scherr, from whom he alleges an honourable discharge.

"As to the second affidavit of William Mehler, Philadelphia, 2nd November, 1855, Hertz denies that he was in Schleswig-Holstein at any time from 1848 until 1851, but asserts that he was then in Messina, Italy, or in Elberfeld, Prussia.

"As to the affidavit of Wm. A. Dobbyn, Philadelphia, 3rd November, 1855, Hertz says that Mr. Dobbyn was once an English Colonel; admits that he did ask Dobbyn to procure him funds from Consul Mathew. Hertz denies that he spoke as Dobbyn alleges, and asserts that what he did say was to the effect that he depended on Messrs. Crampton and Mathews as gentlemen to keep him out of prison.

"As to the affidavit of Franklin Butler, Philadelphia, 6th March, 1856, Hertz says, that he bought watches from Butler, but has paid all he owes Butler, and has his receipt in full; and that he intends to institute legal proceedings against Butler, for libel.

"As to affidavit of Joseph Howe, Halifax, November 20, 1855, Hertz says that the pamphlet proceedings of the trial will show who Mr. Howe is.

"As to affidavit of T. L. Bucknall, Dublin, Hertz says that Bucknall was himself arrested for complicity in the recruiting affair, and that Bucknall is in the English employ.

"As to the affidavit of Andrew C. Craig, Philadelphia, 5th March, 1855, Hertz says that he never was in Craig's employ, and that Craig now denies that he made any such affidavit.

' May 26, 1855.

(Signed)

"J. HERTZ."

It will be evident, from the letters of Hertz previously transmitted to your Lordship, that this document is not his own composition, and, as up the 27th of May (its date) no publication of any sort or kind had taken place in this country of the affidavits of which it assumes to treat, I conclude that he derived his cognizance of them from the United States' authorities in Washington.

I apprehend that his statement calls for little, if any, comment at my hands.

Messrs. E. N. Scherr and P. R. Scherr, are father and son, engaged in the same business; they both expressed their unfavourable opinion of Hertz, from whose frauds they had suffered; the son proceeded to the Alderman's office to make the affidavit transmitted to your Lordship.

Mr. Dobbyn, once a Captain in Her Majesty's service, whose circumstances became seriously reduced by the failure of the bank of the United States in this city, is a gentleman of undoubted veracity, and holds an office of confidence in the Pennsylvania Hospital.

Mr. Butler having trusted Hertz with some watches (on his plausible story of a purchaser at hand), was ultimately obliged to give him a receipt for all, to recover a part of the property he had entrusted to him.

Mr. Howe will have placed in your Lordship's hands the original receipt in Hertz's handwriting, which convicts the latter of gross and wilful perjury.

The affidavit of Mr. Craig, made personally before Alderman Kenny, and recorded in his official book, speaks for itself. Mr. Craig is a highly respectable wine-merchant, quite incapable of denying his acts.

The evil reputation of Hertz in this community is so notorious, that I cannot but feel greatly surprised to find that the Government of the United States desired to deal further with his testimony.

It might rather have been anticipated, that on making, however tardily, due inquiry, or upon one tithe of the evidence laid before it, this Government would have rejected his perjured testimony, with the frank expression of regret, inseparable from all honourable minds, at having been led into error.

Your Lordship will, I apprehend, conceive any further proof of this man's unworthiness a work of supererogation, but I confine myself to his known acts during the last month.

The inclosed certified transcript from the docket of Alderman Ogle, of this city, proves that on the 6th of May last he was, after a full hearing, bound in bail to take his trial for the theft of a promissory note for 240 dollars.

On the 10th of May he was bound over for trial by Alderman Hibberd (whose certified record is annexed), for swindling John Cosgrove out of 100 dollars.

And on the 27th he was brought before Alderman Ogle, on a charge of flagrant forgery, as detailed in the annexed affidavit of Mr. C. Christman, a respectable merchant of this city. The final hearing in this case is fixed for to-morrow.

I take leave to add to the above the affidavit of Mr. F. Hayes, deposing to certain offers and statements made to him by Hertz, and to a letter addressed to the latter by Mr. Cushing, Attorney-General of the United States.

Mr. Hayes is, I believe, in the frequent employment of the authorities in police matters requiring a very confidential person, and has furnished me with the inclosed testimonial in his favour from Mr. Vaux, the present Mayor of Philadelphia.

I have, &c.
(Signed) GEORGE B. MATHEW.

Inclosure 1 in No. 8.

Transcript from the Docket of Alderman Ogle.

Commonwealth v. Henry Hertz.

WARRANT issued on the 5th day of May, 1856, on oath of Charles H. Christman. Defendant charged with having stolen from complainant a promissory note for 240 dollars or more.

And now, 6th May, 1856, defendant appears and enters bail to his appearance on the 7th instant at 4 o'clock P.M.

And now, 7th May, 1856, 4 o'clock P.M., parties appear.

Charles Christman sworn.

After hearing, defendant required to give bail in the sum of 600 dollars conditioned for his appearance at the next term of Court.

Defendant residing at No. 424, North Twelve-street, and James Harrison,

residing at No. 5, Marshall-street and No. 6 Walnut-street, bound jointly and severally in 600 dollars for the appearance of defendant, at the next term of the Court of Oyer and Terminer, and Quarter Sessions of the Peace, for the county of Philadelphia.

The following persons, each tent in 50 dollars, to appear and testify at the said term of Court :

Charles Christman.

I hereby certify that the above is a correct transcript from my docket. Witness my hand and seal, this 29th day of May, 1856.

(Signed) WILLIAMS OGLE, *Alderman*.

Inclosure 2 in No. 8.

Transcript from the Docket of Alderman Hibberd.

Commonwealth v. Henry Hertz.

WARRANT issued on the 5th day of May, 1856, on oath of John Cosgrove; the defendant charged with obtaining from John Cosgrove, the deponent, the sum of 100 dollars by false pretences, with intent to defraud deponent.

10th May, defendant brought.

John Cosgrove sworn.

After hearing, defendant required to give bail in the sum of 500 dollars conditioned for his appearance at the next term of Court.

Defendant, residing at _____, and William K. Deacon, residing at corner of Guaia Avenue and Deacon-street, and James Harrison, No. 6, Walnut-street, bound jointly and severally in _____ dollars for the appearance of defendant, at the next term of the Court of Oyer and Terminer, and Quarter Sessions of the Peace, for the county of Philadelphia.

The following persons, each tent in _____ dollars, to appear and testify at the said term of Court :

John Cosgrove, Vine-street, above Eighth-street.

I hereby certify that the above is a correct transcript from my docket. Witness my hand and seal, this 10th day of June, 1856.

(Signed) WM. P. HIBBERD, *Alderman*.

Inclosure 3 in No. 8.

Affidavit of Mr. C. Christman.

State of Pennsylvania, City of Philadelphia, ss.

CHARLES H. CHRISTMAN being sworn, says: I reside on South Washington-square, in the City of Philadelphia, and am a merchant in Front-street in said city. I know Henry Hertz, the man who was concerned in the enlistment prosecutions. He has been selling goods for me on commission since June last. During the month of May he stole from me a promissory note for 246 dollars, to answer which offence he is bound over for trial at the Court of Quarter Sessions to answer the charge of larceny of said note.

In September last the said Hertz collected a bill from Bullock and Crenshaw, of this city, due to me of 31 dollars 7 cents, and he never made any return to me of the money collected. I never discovered it until a few days ago when I called to collect the bill. I was then showed a cheque drawn to my order for that amount dated the 5th September, 1855, which said cheque was paid to the said Henry Hertz in payment of the bill. My name is forged as an endorsement on said cheque. Henry Hertz has been arrested for this forgery, and an investigation is now going on before one of the magistrates of this city for the offence.

(Signed) CHARLES H. CHRISTMAN.

Sworn and subscribed before me, June 2, 1856.

(Signed) JNO. B. KENNEY, *Alderman*.

State of Pennsylvania, County of Philadelphia, ss.

I, James G. Gibson, Prothonotary of the Court of Common Pleas of said county, do certify that John B. Kenney, Esquire, before whom the annexed affidavit was made, was at the time, and now is, an alderman and *ex officio* justice of the peace of the City of Philadelphia, duly commissioned and qualified to administer oaths and affirmations, and to take acknowledgments, &c., and to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere, and that his signature thereto is genuine.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, this 2nd day of June, 1856.

(Signed) [Signature illegible] *Prothonotary.*

Inclosure 4 in No. 8.

Affidavit of Mr. F. E. Hayes.

I, FERDINAND E. HAYES, being affirmed in due form of law, declares and say—

That I reside in the city of Philadelphia. That some time in the month of March 1856, Henry Hertz was introduced to me at the Mansion House, in said city of Philadelphia. He said he had been wanting to see me, as he understood I was acquainted with the Honourable George B. Mathews, Her Britannic Majesty's Consul for the port of Philadelphia. I told him my acquaintance with Mr. Mathews was very slight, being merely an introduction to Mr. Mathews some time before by Mr. Blackburn. He then said he wanted to have a private talk with me, and we at once went into a private room. Hertz then said he had been very badly treated by the United States' Government and its officers, and named Mr. Caleb Cushing, the Attorney-General; Mr. J. C. Van Dyke, the United States' District Attorney, as I think; also Mr. Marcy. He said that Mr. Cushing had offered him great inducements for what he had done and testified to, and had promised him office and protection. In support of this he showed me a letter from Mr. Cushing to himself, which fully corroborated him in what he said. From my knowledge of Mr. Cushing's handwriting, I had no doubt the letter was genuine, and in the handwriting of Caleb Cushing, the Attorney-General of the United States.

I understood from Hertz that he had been employed by Cushing and others to entrap the British Government and its officers into this enlistment business for the Crimea, for the purpose of making capital for General Pierce, so that Pierce could be re-nominated by the Democratic Convention for President.

He said he had done all the work, and now that he was no longer wanted they turned him off, with the threat that if he "blowed" they would sentence him. He wanted me to make known these facts to Mr. Mathew. I declined to do so, and recommended him to do so himself. He said he could not, as Mr. Mathew would not allow him to speak to him.

He was very open in his conversation, and said he had free access to the whole archives of the State Department, and from his knowledge of Mr. Cushing and the letter, I was inclined to believe that he was the private political agent of the Government.

At the time of the conversation above alluded to, I was boarding at the said Mansion House, Sixteenth and Market Streets, and was introduced to the said Henry Hertz by James London, the proprietor of said Mansion House Hotel.

(Signed) FERDINAND E. HAYES.

Affirmed and subscribed before me, June 2, 1856.

(Signed) JNO. B. KENNEY,
Alderman of the City of Philadelphia.

Eastern District, State of Pennsylvania, City and County of Philadelphia, ss.

I, Robert Tyler, Prothonotary of the Supreme Court of Pennsylvania for the Eastern District, do certify—

That John B. Kenney, Esquire, before whom the foregoing affirmation was made, was at the time the same was made, and now is, an alderman and *ex officio* Justice of the Peace of the city of Philadelphia, duly commissioned and qualified to administer oaths and affirmations, and to take acknowledgments, &c., and to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere, and that his signature thereto is genuine.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, this second day of June, 1856.

(Signed) Ro. TYLER, *Prothonotary*.

Inclosure 5 in No. 8.

Mr. Vaux to Mr. Hayes.

My dear Sir,

June 3, 1856.

YOU are at liberty to say to any one that I have known you long, and could employ you in any confidential business which your talents would justify.

Always yours,
(Signed) R. VAUX.

United States of America, State of Pennsylvania, City of Philadelphia, ss.

Be it known that on the 7th day of June, 1856, I, Edmund Wilcox, Notary Public for the Commonwealth of Pennsylvania, by lawful authority duly commissioned and sworn, residing in the city of Philadelphia, do hereby certify—

That the within letter is in the own proper handwriting of the Honourable Richard Vaux, and that his signature thereto is genuine; and I do further certify that the said Richard Vaux is at present Mayor of the city of Philadelphia.

In testimony whereof I have hereunto set my hand and affixed my Notarial Seal in Philadelphia, the day and year above written.

(Signed) EDMUND WILCOX, *Notary Public*.

No. 9.

The Earl of Clarendon to Mr. Dallas.

Sir,

Foreign Office, June 26, 1856.

THE despatch of Mr. Marcy which you read to me on the 11th instant, and of which you placed a copy in my hands, has received the attentive consideration of Her Majesty's Government.

Her Majesty's Government are gratified at learning that the assurances contained in my note to you of the 30th of April, that no intention existed on the part of Her Majesty's Government to violate the laws, compromise the neutrality, or disregard the sovereignty of the United States, have been unreservedly accepted by the President, and that all cause of difference with respect to the Question of Enlistment has ceased to exist between the Governments of Great Britain and of the United States.

It is with much regret, however, that Her Majesty's Government have learnt that the President has been unable to alter the view which he had taken of the conduct of Her Majesty's Minister at Washington, and of Her Majesty's Consuls at New York, Philadelphia, and Cincinnati, in regard to the transactions which have been under discussion between the two Governments.

Mr. Marcy had, in his despatch of December 28, 1855, stated that the President was of opinion that those officers of Her Majesty had violated the laws of the United States, by being parties to enlistments within the Union; that he, on that ground, considered that they had become unacceptable organs of Her Majesty's Government in the United States, and that he consequently requested that they might be removed from their respective posts.

Her Majesty's Government did not share this opinion of the President in regard to the conduct of those officers of Her Majesty; and having communicated to those officers the charges made against them, and the evidence on which those charges rested, and having received from them full denials of the truth of the charges, and such corroborating evidence as they were able to procure tending to invalidate the testimony brought against them, Her Majesty's Government laid all these matters fully and frankly before the Government of the United States, with the persuasion that they would remove the unfavourable impression which had been created in the mind of the President with regard to the conduct and proceedings of Her Majesty's Minister at Washington and of the three above-mentioned Consuls.

It appears, however, that this communication has not produced the effect which Her Majesty's Government had expected; and Mr. Marcy, in stating that the President's view of these matters remained unaltered, accompanied that statement by a number of additional documents, tending to confirm the view which the President had originally taken of these matters.

Her Majesty's Government have carefully examined these additional documents, but do not find in them any evidence worthy of belief which should shake the confidence which they have reposed in the assurances of Mr. Crampton and of the Consuls.

Her Majesty's Government retain the high opinion which they have ever held of the zeal, ability, and integrity of Mr. Crampton; and of the earnest desire by which he has been animated to avoid all just cause of offence to the Government to which he was accredited. Her Majesty's Government cannot but believe that on many material points in respect to his conduct, the President has been misled by erroneous information, and by the testimony of witnesses undeserving of belief.

Her Majesty's Government entertain similar convictions as to the conduct of Her Majesty's Consuls at New York, Philadelphia, and Cincinnati.

Such a conflict of opinions on such a matter between the Governments of two great Powers must necessarily be the subject of serious deliberation by both; and Her Majesty's Government have not failed to give to this matter all the consideration which it justly deserved.

If Her Majesty's Government had been convinced, like the Government of the United States, that Her Majesty's officers had in defiance of their instructions violated the laws of the United States, Her Majesty's Government would, both out of deference to the United States, and from a due regard to the authority of the British Crown, have removed those officers from the posts which they held.

If the Government of a foreign country were capriciously, and without any apparent belief that it had good ground for doing so, to break off its diplomatic relations with the Minister accredited to it by Her Majesty, Her Majesty's confidential servants, answerable for maintaining the honour and dignity of the Crown, could not hesitate as to advising Her Majesty equally to break off all diplomatic intercourse with the Minister of such Government accredited to her Court.

But in the present case Her Majesty's Government are bound to accept the formal and repeated declarations of the President of his belief that these officers of Her Majesty have violated the laws of the Union, and are, on that account, unacceptable organs of communication with the Government and authorities of the United States; and Her Majesty's Government cannot deny to the Government of the United States a right similar to that which, in a parallel case, they would claim for themselves, the right, namely, of forming their own judgment as to the bearing of the laws of the Union upon transactions which have taken place within the Union.

I have, therefore, the honour to inform you that, however deeply Her Majesty's Government regret a proceeding on the part of the President of the United States which cannot but be considered as of an unfriendly character, they have not deemed it their duty on that account to advise Her Majesty to command me to suspend

my diplomatic intercourse with you; and I have to assure you that the high personal esteem which is felt for you by all the members of Her Majesty's Government will render it most agreeable to myself to have the honour of entering into communication with you upon all matters connected with the mutual relations of our two countries. You will be certain of meeting, on the part of Her Majesty's Government, the most friendly feelings towards the United States, and the most anxious desire so to arrange all questions of difference, as to reconcile the just rights and real interests of the two countries with the maintenance of those amicable relations, the preservation of which is of such great importance to both.

I am, &c.

(Signed) CLARENDON.

11

FURTHER PAPERS relative to Recruiting in the
United States.

*Presented to both Houses of Parliament by Com-
mand of Her Majesty. 1856.*

LONDON :

PRINTED BY HARRISON AND SONS.

PAPERS

RESPECTING

RECRUITING

IN

THE UNITED STATES,

NOT ALREADY PUBLISHED IN THE PAPERS
LAID BEFORE PARLIAMENT,
MAY 2, 1856.

(Reprinted from a Collection of Papers entitled "Messages
of the President," ordered to be printed by the Senate
of the United States.)

Presented to the House of Lords by Command of Her Majesty.
1856.

LONDON:

PRINTED BY HARRISON AND SONS.

Papers respecting Recruiting in the United States, not
already published in the Papers laid before Parlia-
ment, May 2, 1856.

N.B.—These papers are reprinted from a Collection of Papers entitled
“Messages of the President,” ordered to be printed by the Senate of the
United States.

No. 1.

The Attorney-General's Report to the President.

Attorney-General's Office, February 27, 1856.

IN answer to that part of the resolution of the Senate of the 25th instant which calls for evidence and documents to show the connection of agents and officers of Great Britain with the alleged violation of the laws and sovereign rights of the United States, the Attorney-General has the honour to lay before the President a copy of a correspondence and accompanying documents, with the Attorneys of the United States for the district of Massachusetts, the southern district of New York, the eastern district of Pennsylvania, and the southern district of Ohio; and also a transcript of his official opinion of the 9th of August, pursuant to the President's order of the 6th of August last.

(Signed) C. CUSHING.

To the President.

*List of Papers accompanying the Report of the Attorney-General to the President,
of February 27, 1856.*

The President of the United States to the Attorney-General, August 6, 1855.
Mr. Cushing to the President, August 9, 1855.
Mr. McKeon to Mr. Marcy, March 22, 1855.
Mr. Cushing to Mr. McKeon, March 23, 1855.
Mr. McKeon to Mr. Cushing, March 24, 1855.
Mr. McKeon to Mr. Cushing, October 16, 1855.
Mr. McKeon to Mr. Cushing, October 17, 1855.
Mr. Cushing to Mr. McKeon, October 20, 1855.
Mr. McKeon to Mr. Cushing, November 1, 1855.
Mr. Cushing to Mr. McKeon, December 8, 1855.
Mr. McKeon to Mr. Cushing, December 11, 1855.
Mr. Cushing to Mr. Van Dyke, March 26, 1855.
Mr. Van Dyke to Mr. Cushing, March 29, 1855.
Mr. Van Dyke to Mr. Cushing, September 10, 1855.
Mr. Cushing to Mr. Van Dyke, September 12, 1855.
Mr. Cushing to Mr. Van Dyke, September 17, 1855.
Mr. Van Dyke to Mr. Cushing, September 27, 1855.
Mr. Cushing to Mr. Van Dyke, September 28, 1855.
Mr. Cushing to Mr. Van Dyke, December 18, 1855.
Mr. Van Dyke to Mr. Cushing, December 19, 1855.
Mr. Cushing to Mr. Jewett, December 8, 1855.
Mr. Jewett to Mr. Cushing, December 18, 1855.

Mr. Cushing to Mr. Jewett, January 10, 1856.
 Mr. Cushing to Mr. Hallett, December 8, 1855.
 Mr. Hallett to Mr. Cushing, December 24, 1855.
 Mr. Cushing to Mr. Hallett, January 17, 1856.

Executive Mansion, Washington, August 6, 1855.

The reports of the District Attorneys of the southern district of New York and the eastern district of Pennsylvania, on the subject of the levy of troops in the United States by official or other agents of Great Britain, are returned herewith to the Attorney-General, and his opinion is required upon the question, whether or not the acts reported are in violation of the Municipal Law and of the national sovereignty and neutrality; and especially upon the question, what legal responsibility, if any, those acts devolve on the British Minister and British Consuls.

(Signed) FRANKLIN PIERCE.

Sir,

Attorney-General's Office, August 9, 1855.

I have the honour to submit herewith the considerations of law applicable to the enlistment of troops within the United States by the British Government, in so far as the facts appearing in the documents before me concern the personal action either of the British Minister or of the British Consuls in the United States.

There is no room for doubt as to the law regarding the general question.

In the first place, the Act of Congress of April 20, 1818, contains the following provision:

"Sec. 2. *And be it further enacted*, That if any person shall, within the territory or jurisdiction of the United States, enlist or enter himself, or hire or retain another person to enlist or enter himself, or to go beyond the limits of or jurisdiction of the United States, with intent to be enlisted or entered into the service of any foreign Prince, State, colony, district, or people, as a soldier, or as a marine or seaman on board of any vessel of war, letter of marque, or privateer, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding one thousand dollars, and be imprisoned not exceeding three years." (3 Stat. at Large, p. 448.)

Of course, as the levy of troops within the United States for foreign service is forbidden by law, no such right has, by Executive permission, been given to Great Britain. To the contrary of this, the British Government was expressly notified, by letter of Mr. Marcy to Mr. Crampton of April 28, 1854, that no enlistments in the United States would be permitted either to Great Britain or to Russia. (Ex. Doc. 1st session 33rd Congress, vol. xii, No. 103, p. 5.)

In the second place, independently of the municipal relations of the acts in question, they constitute, whether they be the acts of the British Government or of its Ministers and Consuls, a violation of the sovereignty and of the neutral rights of the United States.

The rule of public law is unequivocal on this point, and is correctly stated as follows, by Wolf:

"Since the right of raising soldiers is a right of Majesty, which must not be violated by a foreign nation, it is not permitted to raise soldiers on the territory without the consent of the Sovereign." ("Jus Gentium," s. 1,174.)

By Vattel: "As war cannot be carried on without soldiers, it is evident that whoever has the right of making war, has also naturally that of raising troops. The latter, therefore, belongs likewise to the Sovereign, and is one of the prerogatives of Majesty." (Vattel, "Droit des Gens," iii, 3, ch. ii, p. 293.)

* * * * *

"As the right of levying soldiers belongs solely to the nation or the Sovereign, no person must attempt to enlist soldiers in a foreign country without the permission of the Sovereign; and even with that permission none but volunteers are to be enlisted; for the service of their country is out of the

question here, and no Sovereign has a right to give or sell his subjects to another.

"Whoever undertakes to enlist soldiers in a foreign country without the Sovereign's permission, and, in general, whoever entices away the subjects of another State, violates one of the most sacred rights of the Prince and the nation. This crime is distinguished by the name of kidnapping or man-stealing, and is punished with the utmost severity in every well-regulated State. Foreign recruiters are hanged without mercy, and with great justice. It is not presumed that their Sovereign has ordered them to commit a crime; and supposing even that they had received such an order, they ought not to have obeyed it; their Sovereign having no right to command what is contrary to the law of nature.

* * * But if it appears that they acted by order, such a proceeding in a foreign Sovereign is justly considered as an injury, and as a sufficient cause for declaring war against him, unless he makes suitable reparation." (Vattel, "*Droit des Gens*," l. iii, ch. ii, p. 298.)

By Kluber: "A State entirely neutral has the right to exact, even by force if necessary, that belligerent Powers do not use its neutral territory for the purposes of war; that they take not therefrom munitions of war, and provisions and other immediate requirements of war, for their armies; *that they do not make there any military preparations, enrolments or collections of troops*; that none of their troops, armed or unarmed, pass through, &c., &c.; that they exercise there no act of hostility against the persons or property of the subjects of the hostile State; that they do not occupy it militarily, or make it the theatre of war." ("*Droit des Gens Moderne de l'Europe*," s. 285.)

By G. F. de Martens: "Whilst, in case of rupture between two nations, a neutral State preserves the full enjoyment of its territorial rights, it can, in the absence of Treaties, prohibit during the war, as in time of peace, any passage or sojourn of foreign troops, and much more forbid the occupation of its fortresses, the recruiting, mustering and exercising troops; and it may use force against those who shall attempt to violate the prohibition." ("*Précis du Droit des Gens*," s. 350.)

By Galiani: "All Governments are accustomed to forbid, under capital penalty, any foreigner to make military engagements or recruits *within their territory*; in doing which they do no more than to sustain and defend a natural right, and one inherent in every sovereignty. * * *

"The neutral Sovereign who leaves his subjects at liberty to engage themselves in the service of a foreign belligerent, will not therein be wanting to his neutral duties, provided it has been customary with his nation; if it has been usual in time of peace; if it accords with the physical and political condition of the country; if, in fine, he practises indifference and impartiality, not denying to one belligerent what he concedes to the other. But if a Sovereign has not been accustomed to allow his subjects to enlist in the military or naval service of other Governments, it may well be doubted whether he may, for the first time, do it on the occurrence of war between two States, each of which is in amity with him. I am not prepared to say that in so doing he gives equality of advantage and facilities to both; for there might be inequality in the need of the belligerents; for perhaps *one of them, suffering from deficiency of men, would derive precious and powerful succour from such permission, while to the other it would be useless and superfluous*. In my opinion, therefore, this question comes within the general rule of essential neutral duties: that is, to continue in the anterior condition, it being lawful to persevere in what has been usual, but unlawful to innovate." ("*Dei Doveri de' Principi Neutrali*," pp. 325, 327, 329.)

By Hautefeuille: "The duties of belligerents may be summed up in very few words. The belligerent ought to abstain from the employment of all such indirect means to molest his enemy as, in the accomplishment of their object, would first injuriously affect a neutral nation. He ought to respect, in the most complete and absolute manner, the independence and sovereignty of nations at peace: in a word, he ought to treat them in the same manner as if the most profound peace continued to prevail. Those nations, in fact, are at peace with

him, fulfilling strictly their duties of neutrality; they have the right to enjoy the advantages of their position, and to be exempt from all the evils of war; the duty of the belligerent is to abstain from the infringement of this right. Thus neutral territory ought to be held sacred and inviolable by nations at war; these last ought not, on any pretext or in any manner, to make use of such territory to subserve their purposes of hostilities, directly or indirectly. The passage of armed troops, the levying of soldiers, &c., &c., without the consent of the Sovereign, would constitute an offence against the sovereignty of a neutral, and a violation of the duty of the belligerent." (*"Droits et Devoirs des Nations Neutres,"* tom. i, 312, 313.)

"As to the territory of neutral nations, the occurrence of hostilities makes no change nor modification of their rights: they remain inviolable as in time of peace. Their territory ought, then, to be sheltered from all enterprises of the belligerents, of whatever nature they may be. The consequences of war ought never to be felt by them directly; that is to say, no act of hostility should be committed against them, under any pretext.

"Belligerent nations, in this respect, have only the rights they possessed in time of peace, because war never injuriously affects nations at peace. Belligerents cannot, then, in any case, without the permission of the Sovereign, use neutral territory, I do not say directly, for the operations of war; but cannot even make use of it for any advantage whatever to the prejudice of their enemy. This permission cannot be granted to them by the neutral without violating his duties.

"The principle of the inviolability of the territory being admitted, the conclusion, as absolute as the principle itself, follows, that a belligerent has no right to use neutral territory in any manner whatever, without the permission of the neutral nation sovereign of such territory, and cannot, therefore, levy troops there, and march armies through it, &c., without this permission.

"The neutral has the incontestable right to resist every attempt the belligerent may make to use his territory, to oppose it by all the means in his power, and even by force of arms, in the same manner as a citizen has the right to defend his property by all the means placed at his disposal by the law to which he is subject." (*Ibid.*, tom. iii, pp. 48, 49.)

I do not perceive that this doctrine is explicitly produced in any one of the books of International Law published during the last few years in Great Britain. Possibly their silence on this point may be caused by the policy of their country, which, under the kings of the House of Hanover, has frequently relied upon foreign recruits in the time of war. However this may be, some of the English works referred to recognise the right of every sovereignty to the exclusive use of its own territory and resources (Wildman's International Law, vol. i, p. 64), but without adverting to the present logical consequences of this right; although one of them discusses fully the collateral question, whether a State loses its neutrality by permitting foreign levies, and concludes, properly, that, if it be permitted to one, it should be permitted to each of the respective belligerent Powers. (Manning's "Law of Nations," bk. iii, ch. i.)

In this connexion the same accredited English writer considers and confutes the assumption, crudely and erroneously taken up in Great Britain, that some doctrine to the contrary of this is to be found in Vattel; and, upon an elaborate review of the whole subject, he concludes thus:—

"Foreign levies may not be allowed to one belligerent, while refused to his antagonist, consistently with the duties of neutrality. When Treaties, antecedent to war, permit such exclusive privilege, then * * no complaint of breach of neutrality can be maintained by the excluded party. But, when no antecedent Treaty exists, such a permission would be a violation of neutrality, the principles of which demand the strictest abstinence from assistance to either party, and, of course, will not admit that exclusive privileges, in so important a particular, should be granted to one belligerent. Nor have the customs of Europe, derived from the practices of the middle ages, established any usage that prevents this question from being settled in accordance with the dictates of reason, or, in other words, with the law of nature." (Manning, *Ibid.*, p. 180.)

Mr. Manning's reasoning is conclusive so far as it goes. And the imperfection of other English law-books in this respect is of no account, as against the general authority of the expounders of international law in all the rest of Christendom.

Misconstruction has also been placed on the fact that Bynkershoek maintains the right of private or voluntary expatriation, even for the purpose of foreign military service. But he does not express or countenance the thought that a foreign belligerent may recruit soldiers in a neutral country without the consent of its Sovereign. On the contrary, he exhibits in full the legislation of the United Provinces, according to which it was a capital offence to make enlistments in the country without consent of the States General. ("Quæst. Jur. Publici," lib. i, c. 22.)

Besides, Great Britain has, in her own legislation, sanctioned and adopted the rule of public law, by enacting that if any person whatever, within the United Kingdom, or in any part of the dominions of Great Britain, shall hire, engage, retain, or procure, or shall attempt or endeavour to hire, retain, engage, or procure any person whatever to enlist, or to enter or engage to enlist, as an officer, soldier, sailor, or marine, either on land or sea service, for or under or in aid of any foreign Prince or Government, or to go or agree to go or embark from any place in the British dominions for the purpose or with the intent to be so enlisted, entered, or engaged as aforesaid; every person so offending shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment at the discretion of the Court having jurisdiction of the act. (Act of 59 Geo. III, cap. 69.)

We, in the United States, acting in the sense of natural right, and following the rules of public law, as explained by the jurists of continental Europe, asserted and established this doctrine at a very early period, in opposition to the undertaking of the French Government, through its Minister, M. Genet, to man or equip cruisers within the United States. (Mr. Jefferson to M. Genet, June 17, 1793—American State Papers, For. Aff., vol. i, p. 154.)

And our judicial text-books are full and explicit on the same point. (Wheaton by Lawrence, p. 498; Kent's Com., lec. 6.)

It is obvious to the most superficial reflection, that no distinction of principle exists in the levy of a military force in the neutral country, as between the land and sea service; and if Great Britain may raise, within the United States, volunteers for her land service, so Russia may raise them for her marine service, that is, may fit out privateers in our ports; and, indeed, if we grant or permit the former privilege to Great Britain, we must, in like manner, in order to be impartially neutral, concede the latter privilege to Russia.

And it is equally obvious that foreign recruiting cannot be forbidden or permitted under the influence of any assumed national sympathies or antipathies. Individual or national preferences are quite immaterial in such a question. The United States cannot, either lawfully or honourably, practise a simulated neutrality; nor can a dissembled alliance be claimed or expected from us, either by Great Britain or by Russia.

From the well-established rules and principles of law, then, it is plain to conclude:—

1. The acts of enlistment in question are contrary to the Municipal Law of this country, and indictable as a high misdemeanour.
2. Those acts, if permitted to one belligerent, must be permitted to all, in observance of impartial neutrality.
3. Being against law in the United States, and therefore not permitted to Great Britain if undertaken by her as a Government, they afford just cause of war, being direct national violation of the territorial sovereignty of one nation by another.
4. Whatever agents of the British Government, whether official or unofficial, acting voluntarily or by orders, have participated in such acts, are not only guilty of a criminal infraction of the statute law, but also, in the language of Vattel, of violating one of the most sacred rights of the nation.

I presume that if, in the present case, the British Minister imagines that the acts performed under his direction were not contrary to the Municipal Law, it must be on the ground that the recruits were not completely enlisted in the United States; that is, did not here, in all form, enter the military service of Great Britain. That assumption is altogether erroneous. The statute is express, that if any person shall hire or retain another person to go beyond the limits or jurisdiction of the United States, with intent to be enlisted or entered into the

service of any foreign State, he shall be deemed guilty of the defined misdemeanour.

It is possible, also, that he may have supposed that a solemn contract of hiring in the United States is necessary to constitute the offence. That would be mere delusion. The words of the statute are, "hire or retain." It is true, our Act of Congress does not expressly say, as the British Act of Parliament does, "whether any enlistment money, pay, or reward, shall have been given and received or not," (Act 59 Geo. III, ch. 69, s. 2); nor was it necessary to insert these words. A party may be retained by a verbal promise, or by invitation for a declared or known purpose. If such a statute could be evaded or set at nought by elaborate contrivances to engage without enlisting, to retain without hiring, to invite without recruiting—to pay recruiting money, in fact, but under another name of board, passage money, expenses, or the like—it would be idle to pass Acts of Congress for the punishment of this or any other offence.

However this may be, and if such were the thought of the British Government, it has not been successfully carried out; for, on the evidence before me, including the general instructions of the British Minister and his direct correspondence with recruiting officers in the United States and others, my opinion is positive, that the parties have made themselves amenable to the penalties of the statute, and may be convicted before any competent Court of the United States.

It is further to be observed, in conclusion of this branch of the subject, that whether the acts of the British Minister and his agents, in recruiting troops within the United States, do or do not come within the technical provisions of the Act of Congress, is altogether immaterial to the question of international right, as between this Government and that of Great Britain. If, by ingenious evasions of the letter of a penal statute, intended only for private malefactors, the British Government should, nevertheless, levy troops here, the fact of the statute being thus defeated and trampled under foot would serve only to augment the public wrong.

Suppose, for instance, that the British Government shall have said to its officers, civil or military, in the British North American Provinces, and to its Diplomatic or Consular Agents in the United States: "You will proceed to raise so many men in the United States; but remember that to do so is forbidden by the Municipal Law of that country, and is indictable as a misdemeanour; you will, therefore, take care to proceed cunningly in this, so as not to incur the penalties of the statute." Such instructions while they might have the effect of raising the troops, as desired by the British Government, without its agents incurring the penalties of the statute, would but constitute a more flagrant and aggravated violation of the national dignity and sovereign rights of the United States.

In truth, the statute in this matter is of but secondary account. The main consideration is the sovereign right of the United States to exercise complete and exclusive jurisdiction within their own territory; to remain strictly neutral, if they please, in the face of the warring nations of Europe; and of course not to tolerate enlistments in the country by either of the belligerents, whether for land or sea service. If there be local statutes to punish the agents or parties to such enlistments, it is well; but that is a domestic question for our consideration, and does not regard any foreign Government. All which it concerns a foreign Government to know is, whether we, as a Government, permit such enlistments. It is bound to ask permission of us before coming into our territory to raise troops for its own service. It has no business to inquire whether there be statutes on the subject or not. Least of all has it the right to take notice of the statutes only to see how it may devise means by which to evade them. Instead of this, it is bound, not only by every consideration of international comity, but of the strictest international law, to respect the sovereignty and regard the public policy of the United States.

Accordingly, when, at the commencement of the great European struggle between England and France, near the close of the last century, the French Convention assumed to recruit marine forces in the United States, it was held by President Washington, and by his Secretary of State, Mr. Jefferson, as explained in the correspondence hereinbefore quoted, that, by the Law of Nations, in virtue of our sovereignty, and without stopping to enact Municipal laws on the subject, we had full right to repress and repel foreign enlistments,

and *e converso*, that the attempt to make any such enlistments was an act of gross national aggression on the United States.

When a foreign Government, by its agents, enters into the United States to perform acts in violation of our sovereignty, and contrary to our public policy, though acts not made penal by Municipal Law, that is a grave national indignity and wrong. If, in addition to this, such foreign Government, knowing that penal statutes on the subject exist, deliberately undertakes to evade the Municipal Law, and thus to baffle and bring into disrepute the internal administration of the country, in such case the foreign Government not only violates but insults our national sovereignty.

I repeat, then, that if it were to be supposed that the British Government had so far forgotten what is due to its own dignity, as to instruct its Agents within the territories of the German Bund, in the Netherlands, in the United States, to enlist recruits without respect for local sovereignty, but with care to avoid or evade the letter of local statutes, instead of diminishing, that would aggravate, the injustice and the illegality of the proceeding in the eye of the Law of Nations, and the intensity of the public wrong as regards the neutral States thus converted, without their consent, into a recruiting ground for the armies of Great Britain.

Such instructions would be derogatory to the public honour in another respect. They presume that the United States, without becoming the open ally of Great Britain, will, by conniving at the use of its territory for belligerent purposes, while professing neutrality, thus carry on, as already intimated, a dishonourable war in disguise against Russia.

It appears, however, that the British Government, finding it impossible to keep the ranks of its army filled by voluntary enlistments, and being loath to encounter the responsibility of a law for conscription, for draughts on militia, for periodical service of its able-bodied men, or for any other systematic method of raising troops from its own population, introduced into Parliament a Bill entitled "An Act to permit foreigners to be enlisted, and to serve as officers and soldiers in Her Majesty's forces," but which was, in fact, a Bill to authorize the Government to employ agents to carry on recruiting service in the neutral States of Europe and America.

The law was earnestly objected to in its progress, as insulting to neutral States and derogatory to the national dignity, but was passed, nevertheless, on the 22nd of December, 1854. ("Hansard's Debates," third series, volume 136, *passim*.)

At an early day after the passage of this Act, measures were taken to recruit officers and men, for a proposed Foreign Legion, in the United States; those measures being publicly pursued under the official responsibility of Sir Gaspard le Marchant, Lieutenant-Governor of the Province of Nova Scotia. A military dépôt was established at Halifax for the reception and enrolment of recruits; and Mr. Howe, a member of the Provincial Government, with other agents, came into the United States to make arrangements for engaging and forwarding the recruits, chiefly from Boston, New York, and Philadelphia. Subsequently, corresponding arrangements were made for collecting and forwarding recruits from the Western States, by Buffalo or Niagara, through Upper Canada.

These acts were commenced and prosecuted with printed handbills and other means of advertisement, and recruits were collected in dépôts at New York and elsewhere, and regularly transported to Canada or Nova Scotia with undisguised notoriety, as if the United States were still a constituent part of the British Empire. Of course they attracted great attention, and the various measures, whether legal or political, proper to put a stop to them, were instituted by your direction, through the instrumentality of the foreign or legal Departments of the Government of the United States.

In the course of the investigations which ensued, among the facts brought to light are some, in the documents referred to me, which unequivocally implicate not only British Consuls but the British Minister himself in the unlawful transactions in question, and so call for inquiry as to the rights of this Government in reference to them and their Government.

In the application of the general rules of law to the offences committed, it is necessary to distinguish between the case of any of the Consuls and that of the Minister.

The several District Attorneys of the United States within whose juris-

diction respectively the cases occurred, very properly assumed that the Consuls were subject to indictment for infraction of the Municipal Law, and have proceeded accordingly—prosecutions having already been instituted in the southern district of Ohio against the Consul at Cincinnati, and in the southern district of New York against an officer of the Consulate of New York.

Nothing is better settled by adjudication in this country, than that foreign Consuls are subject to criminal process for violation of the Municipal Laws. (*United States v. Ravara*, 11 Dall., 297; *Mannhardt v. Soderstrom*, 1 Bin., 144; *Commonwealth v. Kosloff*, 1 Serg. and R., 545; *State v. De la Foret*, 11 Nott and Mc, 217.)

These adjudications are in exact conformity with the Law of Nations in regard to Consuls, as understood and practised not less in Great Britain than in the other States of Christendom. (See *Opin.*, November 4, 1854, MSS.; also, *Kent's Com.*, vol. i, p. 44; *Wheaton's El. by Lawrence*, 305.)

The only privilege which a Consul enjoys, in this respect, in the United States, is that awarded to him by the Constitution, of being tried by the Federal Courts: the effect of which is, that his case remains within the control of the general Government, which may deal with it according to the convenience or the exigencies of its foreign policy, without impediment from the authority of any of the individual States of the Union. (*Const.*, Art. iii, sec. 2; *Act of September 24, 1789*, sec. 9—1 Stat. at Large, p. 77.)

The Consul at Cincinnati, as appears by the legal proceedings there, supposes that he is entitled to the benefits of certain peculiar stipulations in the Consular Convention between the United States and France, of February 23, 1853. If it were so, that would not serve him on the main point, because it does not exempt Consuls from the criminal jurisdiction of either of the contracting Governments. But this Convention has no application whatever to the Consular relations of Great Britain and the United States. Whether it applies or not to Governments with which we have entered into stipulations to place our respective Consuls on the footing of the most favoured nation, is a question as yet *sub lite*. But there is no stipulation of that nature in existence, as between Great Britain and the United States. Of course, the duties and the rights of American Consuls in Great Britain, and of British Consuls in the United States, stand upon the Law of Nations, except as the same is modified by their Treaties, and by the local law of either country. The local law of each, as we have seen, withholds from Consuls the diplomatic privilege of extraterritoriality. A British Consul, therefore, has no just cause of complaint, if, when charged with an offence, he is held amenable to the criminal jurisdiction of the United States.

In addition to those ordinary means of redress in the case of the misconduct of a foreign Consul, is that afforded by the Law of Nations. The President of the United States has the undoubted power, in his discretion, to withdraw the *exequatur* of any foreign Consul. To justify the exercise of this power, he does not need the fact of a technical violation of law judicially proved. He may exercise it for any reasonable cause, whenever, in his judgment, it is called for by the interests or the honour of the United States. (*De Clerq*, "Guides des Consuls," p. 101.)

On each of these points provision was made in the Commercial Convention between the United States and Great Britain, of July 3, 1815, which stipulates that "before any Consul (in either country) shall act as such, he shall, in the usual form, be approved and admitted by the Government to which he is sent; and * * in case of illegal or improper conduct towards the laws or Government of the country to which he is sent, such Consul may either be punished according to law, if the law will reach the case, or be sent back; the offended Government assigning to the other the reasons for the same." (Art. 4.)

This Convention, by its terms, was to subsist only four years. By a subsequent Convention, that of October 20, 1818, its duration was prolonged ten years (Art. 4), and afterwards, by another Convention of August 6, 1827, for another ten years, and until denounced by either party on twelve months' notice.

For the rest, the stipulations of the Convention of 1815, as continued by the Conventions of 1818 and 1827, are but declaratory of the Law of Nations, as that is understood both in Great Britain and the United States.

In regard to the Minister, it is clear, if he violate the laws of the Government

to which he is accredited, or otherwise offend its sovereignty, there is no remedy except in the manner and form prescribed by the Law of Nations. He enjoys an exemption from judicial process, which immunity is not so much his right as that of his Government.

It was formerly held in England, as we see in March's case, reported by Rolle, in the time of James I. that "although an Ambassador is privileged by the law of nature and of nations, yet if he commit any offence against the law of nature or reason, he shall lose his privilege, but not if he offend against a positive law of any realm." (Rolle's R., p. 175.) No such distinction between *mala prohibita* and *mala in se*, as respects Ambassadors, is now admitted; and their extritoriality is the unanimous doctrine of all publicists, and is recognized in England, as it is in the United States, by statute.

The whole question is learnedly discussed by Wildman, whose views are in accordance with those of Grotius and Bynkershoek, which now prevail throughout Christendom. (Institutes, vol. i, p. 90.)

But the privilege of extritoriality is not conferred on a public Minister as a shield to crime. For any crimes which he may commit, the remedy varies according to the nature of the case.

As to offences against the Municipal Law of the country, committed by a Foreign Minister, or other person entitled to the privileges of diplomatic extritoriality, we have a statute which declares that any writ or process against them, issued by any court, is utterly null and void. (Act of April 30, 1790, sec. 25—1 Statutes at Large, p. 117.) And this immunity of public Ministers has been the subject of judicial recognition in several instances. (See *United States v. Hand*, ii Wash. C. C. R. 435; *United States v. Little*, *ibid.*, p. 205; *ex-parte Cabrera*, *ibid.*, p. 232. See also Wheaton by Lawrence, p. 284; Kent's Com., vol. i, p. 38: Opinion of Mr. Attorney-General Lee, of July 27, 1797.)

The cases of criminality on the part of a public Minister may be distinguished into the following classes:—

1. If the crime committed by the Minister affects individuals only (*delicta privata*), the Government of the country is to demand his recall; and if his Government refuse to recall him, the Government of the country may either expel him by force, or bring him to trial, as no longer entitled to the immunities of a Minister. (Kluber, "Droit des Gens," sec. 211; Ch. de Martens' "Guide Diplomatique," tom. i, p. 88.)

2. If the crime affect the public safety of the country, its Government may, for urgent cause, either seize and hold his person until the danger be passed, or expel him from the country by force; for the safety of the State, which is superior to other considerations, is not to be perilled by overstrained regard for the privileges of an Ambassador. (*Ibid.*; see also Kent, vol. i, 38; schooner "Exchange" v. McFadden, vii Cranch, 116, 139.) Indeed, it has been held, in such a case, in England, that the offending party may be proceeded against for treason. "If," it is affirmed in the case of *Rex v. Owen*, "an Ambassador compass and intend death to the King's person, in the land where he is, he may be condemned and executed for treason." (*Rex v. Owen*, Rolle's R., p. 188.) But that dictum is not in accord with precedents, which, in general, go no further than the arrest and confinement, and the eventual or the immediate expulsion, of a public Minister, for treasonable acts, or acts dangerous to the security of the State.

Signal instances of the arrest or summary expulsion of public Ministers in such a case, are collected by Bynkershoek, by Wicquefort, by Wildman, and by Charles de Martens ("Causes Célèbres").

A very modern case of great notoriety is that of Sir Henry Bulwer, who, while British Minister at Madrid, during the Administration of the Duke of Valencia (General Narvaez), being detected in complicity with domestic revolutionists, was required by letter of the Duke of Sotomayer, the Spanish Minister of Foreign Affairs, to quit Spain immediately, and did so. (Hernandez, "España y el Visconde Palmerston," Madrid, 1848.)

This incident occasioned a brief interruption of the diplomatic relations of the two Governments; but Spain stood firm; and, as Sir Henry Bulwer had acted under the instructions of Lord Palmerston, the British Minister of Foreign Affairs, the British Government, after some delay and the exchange of explanations, conscious that it had been placed in the wrong by Lord

Palmerston, submitted to send a new Minister to Madrid. ("Hansard's Debates," third series, vol. 99, p. 347.)

3. Finally, if the offence be grave, but not such as to compromise the public safety, the course of proceeding in accordance with the Law of Nations, and sanctioned by diplomatic usage, is to demand the recall of the Minister, and meanwhile to refuse, or not, all further intercourse with him, according to the circumstances.

The United States have pursued this course in several instances, of which a memorable one, and exactly pertinent to the present case, is the demand on France for the recall of M. Genet, guilty of enlistments in this country without the consent of its Government. (Am. State Papers, For. Aff., vol. 1, No. 65.)

The public law and usage in this respect are well stated by a modern English author, who says:—

"With respect to the dismissal of Ministers, it is usual, where the matter admits of delay, first to demand his recall. * * But this is a mere act of courtesy, which cannot be expected on occasions of imminent peril. The dismissal of an Ambassador on such occasions is not an assumption of jurisdiction, but a measure of self-defence, which no one has ever denied to be legal, in the case of Ambassadors. * * If an Ambassador use force, he may be repelled by force. * * When the danger is imminent, an Ambassador may be seized as a public enemy, may be imprisoned, may be put to death, if it be indispensably necessary to our safety." (Wildman, Institutes, vol. i, p. 114.)

On the whole, the case of the British Minister, regarded in the light of established rules of the Law of Nations, and diplomatic usage founded thereon, would seem to resolve itself into, first, a question of strict right; and, secondly, of discretion in the exercise of that right.

It clearly is not a case affecting the security of the State, and thus needing or justifying the interposition of summary authority, as in the instance of the Prince of Cellamare in France (Ch. de Martens, "Causes Célèbres," tom. i, p. 139), Count Gyllenberg in Great Britain (Foster's Crown Law, p. 187), and many other cases of historical and legal notoriety or interest. No acts of violence are imputed to the British Minister, nor any purpose or act threatening to the national stability of the United States. What is charged against him is conduct improper in a public Minister, illegal as respects the Municipal Law, injurious to the national sovereignty. If sufficiently shown, it requires to be repressed in such a manner as effectually to vindicate the public honour. Of strict right the President may, as the Queen of Spain did in the case of Sir Henry Bulwer, send his passports to the British Minister, with intimation to leave the country without delay; or he may well, in his discretion, adopt the milder course, as President Washington did in the case of M. Genet, that is, after affording to the British Minister opportunity of explanation through the Secretary of State, then, if his explanation be not satisfactory, to demand his recall of the Queen's Government. The personal esteem which the British Minister justly enjoys here in other respects might counsel the latter course, more especially if the British Government, assuming the responsibility of his acts, should thereupon proceed to tender, in its own name, complete and ample satisfaction for having authorized or permitted such a flagrant wrong as the systematic attempt to recruit a military force in the United States, by the instrumentality of the Lieutenant-Governor of Nova Scotia.

The President.

I have, &c.
(Signed) C. CUSHING.

Southern District of New York,
United States' District Attorney's Office, March 22, 1855.

Sir,
The inclosed handbill was brought to me this morning by Mr. Mc Donald, with the inquiry whether the employment therein indicated is contrary to law. He is to call again to-morrow.

I have arrived at the conclusion that this business is illegal, in contravention of sec. 2 of the Act of April 20, 1818.

I have, &c.

(Signed)

JOHN Mc KEON,

United States' District Attorney.

Hon. W. L. Marcy,
Secretary of State, Washington, D. C.

Inclosure.

HIGHLY IMPORTANT TO THE UNEMPLOYED!

The British Government having concluded to form a Foreign Legion in Nova Scotia, and to raise several regiments for duty in the province, offer a bounty of 6*l.*, or 30 dollars, together with the pay of 8 dollars a-month, rations, good clothing, and warm quarters, to every effective man, fit for military duty, from nineteen to forty years of age, to join which are invited English, Irish, Scotch, and Germans.

The Subscriber (with the view of assisting those who have not the means of paying their passage) hereby gives notice that he has opened a passage-office, No. 36, Pearl-street (near Broad), where he proposes to engage good passages by good vessels to Halifax, leaving two or three times a-week, for the sum of five dollars, or procure through-tickets by the railway, leaving every morning (Sundays excepted), and arriving at St. John's, near Montreal, that evening, which passage-money must be paid him or his agent, by the parties, together with the small sum of 50 cents additional for commissions, on arriving at their destination in the province.

It is hoped that those effective men who are now suffering and in distress, will avail themselves of this rare opportunity of bettering their condition before it is too late.

(Signed)

ANGUS Mc DONALD.

[Burrough's Steam Presses, 113, Fulton Street, New York.]

Sir,

Attorney-General's Office, March 23, 1855.

The Secretary of State has referred to me your letter to him of the 22nd instant, inclosing a handbill signed "Angus Mc Donald," who proposes to recruit soldiers for the military service of the British Government, and advertises a recruiting station for that object at a place indicated in the City of New York.

Statements, corroborative of this document, appear in sundry newspapers of New York.

It is perfectly clear that any such enlistment is contrary to law. The Act of Congress of the 20th April, 1818, not only forbids military enlistments in the United States, for a purpose hostile to any country in amity with us, but also by foreign States for any purpose whatever.

If the troops recruiting for Great Britain in New York are intended to serve against Russia, the undertaking is in violation of our neutrality; and, if not, still it is in violation of the sovereign authority of the United States.

Not long since the Consul of the Mexican Republic at San Francisco was duly tried and convicted there of this precise offence, in having enlisted persons in California for the domestic service of his Government.

These views of the present question have been submitted to the President, and have his approbation; and he accordingly has directed me to advise you at once, in order to avoid delay, and to desire you to take the proper and lawful steps, in your discretion, to bring to punishment all persons engaged in such enlistments within your district.

I am, &c.

(Signed)

C. CUSHING.

Hon. John Mc Keon,
United States' Attorney, New York.

Southern District of New York,
United States' District Attorney's Office, March 24, 1855.

Sir,

I have the honour to acknowledge the receipt of your favour of yesterday, expressing the views of the President in regard to the enlistment at this station of soldiers for Great Britain.

Permit me to say that I will, with great pleasure, carry out the directions contained in your letter.

In order to give publicity to the law, I yesterday officially addressed the Marshal of this district, and desired him to use all the means in his power to preserve inviolate our Neutrality Laws. I inclose a copy of such letter.

I have, &c.

(Signed) JOHN Mc KEON,
United States' District Attorney.

Hon Caleb Cushing,
Attorney-General United States, Washington, D. C.

Southern District of New York,
United States' District Attorney's Office, March 23, 1855.

Sir,

From the newspapers during the last few days, and from other sources, I am inclined to believe that persons in this city are engaged in recruiting men, and in shipping them to some place out of the jurisdiction of the United States, with the intent there to be formed into regiments, to serve in the present war of France, England, and their allies against Russia.

The United States are happily at peace with all the nations of the world. The continuance of peace to our country depends upon the strict enforcement of our Neutrality Laws. The Government is determined to execute these laws to their fullest extent. This duty we owe to ourselves, and to all the nations with whom we are in amity.

I beg, therefore, to call your attention to the second section of the Neutrality Act of 1818, which provides that "if any person shall, within the territory or jurisdiction of the United States, enlist or enter himself, or hire or retain another person to enlist or enter himself, or to go beyond the limits or jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign Prince, State, Colony, district, or people, as a soldier, as a marine or seaman on board of any vessel of war, letter of marque, or privateer, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding 1,000 dollars, and be imprisoned not exceeding three years."

I wish you to use such means as may be at your command to prevent any violation of the laws of the United States which are passed to preserve our neutrality.

I will cheerfully cooperate with you in such measures as you may adopt, to prevent the infraction of this important safeguard to our national peace and prosperity.

I have, &c.

(Signed) JOHN Mc KEON,
United States' District Attorney.

A. T. Hillyer, Esq.,
United States' Marshal, New York.

Southern District of New York,
United States' District Attorney's Office, October 16, 1855.

Sir,

I have the honour to report that on the 12th day of October instant, I brought to trial in the District Court of the United States an indictment against Joseph Wagner, charging him with having, on the 3rd day of August last, hired and retained Abraham Cook to go beyond the limits of the United States with intent to be enlisted in the service of the Queen of Great Britain as a soldier.

The defendant was defended by Honourable Ogden Hoffman, and several other eminent counsel. Judge Ingersoll presided, and delivered a charge to the

jury, the substance of which is given in the inclosed published statement. We were engaged in the trial for two days. The jury rendered a verdict of guilty on the 13th instant.

I have, &c.

(Signed) JOHN Mc KEON,
United States' District Attorney.

Hon. Caleb Cushing.

Attorney-General of the United States.

Inclosure.

[Reported for the "Journal of Commerce."]

United States' District Court, Saturday.

Before JUDGE INGERSOLL.—*Enlisting men for the British Service.*

THE trial of Joseph Wagner was resumed to-day. On the part of the defence another witness was examined, who corroborated the evidence of two others, that Wagner was in bed in the forenoon of the day when Cook swore he met him in the Bowery, and that on the afternoon of that day Wagner went to Boston.

The Court, in charging the jury, recited the law of Congress under which the defendant was being tried, which we gave in our report of the first day's proceedings. The Court then instructed the jury that this law provides that no person shall hire or retain any person to enlist or enter himself to go beyond the limits of the United States with intent to be enlisted as a soldier into the service of a foreign Government. But if one person merely informs another that by his going to Halifax, or any foreign country, he could enlist as a soldier in the service of a foreign Government, that would be no crime under the law of Congress. In such a case there would have been no hiring, or retaining by promise of hire, on either side; and the law does not punish any one for giving such information. Any resident of the United States has a right to go to Halifax with intent to enlist—that would be lawful; but it is not lawful for any one, by any consideration paid, or promised to be paid, to engage another person to go to Halifax with intent to there enlist as a soldier in the service of any foreign Government. And if Cook agreed with Wagner that he would go to Halifax and enlist as a soldier under the British Government; and if the consideration or inducement of such agreement on the part of Cook was a promise from Wagner that Cook should receive thirty dollars in advance, and ten dollars per month for his services as a soldier under the British Government; or if a part or the whole of the consideration of that agreement, on the part of Cook, was the payment of the passage of Cook from New York to Boston, or the promise to pay such passage; or if the consideration of such agreement, or motive which led to it, was any promise of money or any other valuable thing by Wagner, and Cook, when he entered into such agreement, had, for such consideration, the intent to go to Halifax and to there enlist as a soldier under the British Government, then the offence, under the Act of Congress, is complete, and Wagner must be deemed guilty. But the mere giving information, or the merely starting to go, is not sufficient. There must have been some inducement such as the Court stated. If the testimony of Cook cannot be depended on, the prosecution must fail. It was for the jury to determine whether they would give credit to Cook on the part of the prosecution, or to the three witnesses for the defence; they cannot all speak the truth. If the jury were not satisfied beyond all reasonable doubt, they would give a verdict for the defendant. If they were satisfied, they should find him guilty.

The jury found the prisoner guilty.

Southern District of New York,
United States' District Attorney's Office, October 17, 1855.

Sir,

I have the honour to inform you that I have indictments untried against various individuals, charging them with a violation of the law relative to foreign enlistments.

The proceedings which have been taken in this city, Philadelphia, and other places, have undoubtedly tended not only to the putting a stop to the enlistments for foreign service, but have also developed the connection of the officials of the Government of Great Britain, in this country, with a violation of our Municipal Laws.

The object of the prosecutions has been accomplished. It is evident that the parties against whom indictments have been found are but the instruments of others connected with a foreign Power; and it has appeared to me that nothing can be gained by a further prosecution of individuals case.

I take the liberty of suggesting that I shall have your assent to stay further proceedings on the untried indictments.

I have, &c.
 (Signed) JOHN Mc KEON,
United States' District Attorney.

Hon. C. Cushing,
 Attorney-General, United States.

Sir, *Attorney-General's Office, October 20, 1855.*

I have the honour to acknowledge the reception of your two communications of the 16th and 17th instant, in which you inform me of the conviction of Joseph Wagner, accused of the offence of being engaged in unlawfully recruiting troops within the United States for the service of Great Britain, and request instructions as to other indictments of the same class still pending in your district.

These prosecutions were instituted, primarily, for the purpose of arresting the continued perpetration of acts derogatory to the sovereignty and public honour, and contrary to the neutral policy, of the United States.

The punishment of crime in these, as in all other cases of infringement of statute provisions, of whatever nature, was an object also, but in these particular cases a secondary one; for the individual misdemeanour of the parties implicated, whether they be citizens or foreigners, and whether private or official persons, is but a minor incident of the national indignity and wrong inflicted on this Government by the foreign Government in whose behalf and for whose benefit they presume to violate the laws of the United States.

If, therefore, you find that what has thus far been done by you so judiciously and successfully, suffices to maintain the public peace and vindicate the public justice within your district, you will make such disposition as in your discretion seems best of the remaining complaints against any persons who do not hold an official relation to the British Government.

As to guilty persons of the latter description, whether yet under prosecution or not, their criminal acts stand on a different ground, and additional instructions regarding them will be forwarded to you in due time.

Such persons are not only indictable, in common with all others who violate the law of the land, but they are also violators of the international law, and subject to special consideration by the United States, unless disavowed and punished by their own Government.

I have, &c.
 (Signed) C. CUSHING.

Hon. John Mc Keon,
 United States' Attorney, New York.

Southern District of New York,
United States' District Attorney's Office, November 1, 1855.

Sir,

On the 16th of October ultimo, I had the honour to advise you of the conviction of Joseph Wagner, before Judge Ingersoll, upon an indictment for a violation of the Neutrality Laws of the United States.

Since then, the counsel for the accused expressed the desire to move for a new trial, and on that account sentence was deferred from day to day until the opening of the Court this morning, when no motion in arrest being made, Judge Ingersoll sentenced Wagner to an imprisonment for two years, and to the payment of a fine of 100 dollars. In passing sentence, Judge Ingersoll stated that he inflicted this punishment as a warning and example to others, and to prevent this country from being embarrassed, or running any risk of embarrassment, in the conflicts of other Powers.

I have, &c.

(Signed) JOHN McKEON,
United States' District Attorney.

Hon. Caleb Cushing,
Attorney-General.

Sir,

Attorney-General's Office, December 8, 1855.

I am directed by the President to request you to report, for his information, a list of all the criminal complaints entered in your district against persons accused of recruiting for the service of Great Britain, giving the names of the parties, and the time of each alleged act.

I am, &c.

Hon. John McKeon,
United States' Attorney, New York.

(Signed) C. CUSHING.

Sir,

*Southern District of New York,
United States' District Attorney's Office, December 11, 1855.*

Your letter of the 8th instant, requesting me to report, for the information of the President, a list of all the criminal complaints entered in this district against persons accused of recruiting for the service of Great Britain, was received this morning only.

I have the honour to inclose to you the required information, adding thereto the name of the complainant.

With great respect, &c.

(Signed) JOHN McKEON,
United States' District Attorney.

Hon. Caleb Cushing,
Attorney-General.

Inclosure.

LIST of Criminal Complaints.

Date.	Name of Accused.	Name of Comp
April 5, 1855	Adam Lutz	Grand jury.
May 3, 1855	Theodore Remy and Oscar Cromrey . . .	Henrich Hoemund.
May 3, 1855	Julius Parkus and Wilhelm Schumacher .. .	Peter Oswald.
May 7, 1855	— Wachter and — Belger .. .	Max X. Miller.
May 7, 1855	— Wachter .. .	August Herbert.
May 8, 1855	— Grambacher . . .	Adolph Bishop.
May 11, 1855	Andrew Lutz .. .	August Meichel.
May 16, 1855	— Rosenbaum . . .	Henry Kohler.
May 18, 1855	— Wachter .. .	Edward Schmidt.
May 18, 1855	John B. Bettinger .. .	Edward Schmidt.
June 7, 1855	Philip Mellim and Albert Hahn .. .	John Gutkung.

Date.	Name of Accused.	Name of Complainant.
June 7, 1855	Philip Mellim	Adam Helrichs.
June 7, 1855	— Kaufman, — Rosenbaum, and — Weise	Charles Dorble.
June 7, 1855	— Kaufman and — Rosenbaum	Philip Hartegan.
June 12, 1855	George Spetzer	John Paulus.
June 13, 1855	— Kartzelebin	H. Bekker.
June 13, 1855	Ditto	Amred Tiel.
June 23, 1855	Milfort Von Casstensen, — Thomann, — Jorgensen .	Jan. Tujeriah.
June 23, 1855	John Bougard	Augustus T. Leeberman.
June 25, 1855	Captain Schumacher, Oscar Cromrey, Maximilian A. Thorman, Frederick E. M. Carstensen, Joseph Smolensky, Joseph Traska, Charles H. Stanley ..	Antonio Rosenbanm.
August 5, 1855	Joseph Wagner	Lawrence Berlin.
August 5, 1855	Ditto	Abraham Cook.

*Southern District of New York,
United States' District Attorney's Office.*

Sir,

Attorney-General's Office, March 26, 1855.

Information having been communicated to the President that military enlistments for the British service are going on in Philadelphia, he directs me to transmit to you the inclosed copy of a letter, of the 23rd instant, to John McKeon, Esq., Attorney of the United States for the Southern District of New York, and to request you to proceed against all parties engaged in such enlistments within your district.

I am, &c.

(Signed) C. CUSHING.

Jas. C. Van Dyke, Esq.,

District Attorney of the United States, Philadelphia.

*Office of Attorney United States, Eastern District Pennsylvania,
140, Walnut Street, Philadelphia, March 29, 1855.*

Sir,

Your communication of the 26th instant, but postmarked on the 28th, calling my attention to a rumour that certain parties were enlisting in the City of Philadelphia for the military service of the British Government, and inclosing a copy of a letter, dated March 23, 1855, to John McKeon, Esq., Attorney for the United States for the Southern District of New York, and directing me, by request of the President, to proceed against all parties engaged in such enlistments within this district, is this morning received.

In reply to your communication I have the honour to report, that about ten days ago information was left at my and the United States' Marshal's office by some citizens of Philadelphia, who desired their names should be kept in confidence, that several persons were engaged in employing men to go to Halifax, under the pretext of working on the railroad, but with the understanding that when there they were to enlist in the British service. I immediately determined to apprehend the parties, and, by the assistance and vigilance of the United States' Marshal for this district, succeeded in capturing, on the 27th instant, four persons who have been engaged in keeping open, under the name of a commission office, a recruiting station; and also fifteen persons who had engaged to go to Nova Scotia for the purpose of enlisting. A partial hearing has been had before the United States' Commissioner, and the parties have been held to bail for a further hearing on Saturday next.

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In connection with the Marshal of this district, who has already exerted much energy and care in the matter, I shall continue, in pursuance of the instructions contained in your communication, to apprehend and bring to punishment all who shall be found violating our neutrality or national sovereignty in this respect.

Very respectfully,
(Signed) JAS. C. VAN DYKE,

United States' District Attorney, Eastern District of Pennsylvania.

Hon. C. Cushing,
Attorney-General of the United States.

Sir, *Office of Attorney United States, Eastern District of Pennsylvania,
140, Walnut Street, Philadelphia, September 10, 1855.*

There are now pending some twenty bills of indictment against various persons charged with enlisting persons for the war in the Crimea. I have fixed Monday next for the trial of all the cases, and am about sending for the witnesses.

* * *

I shall be pleased to receive your instructions at as early a day as possible.

I am, &c.

(Signed) JAS. C. VAN DYKE.

Hon. C. Cushing,
Attorney-General of the United States.

Sir, *Attorney General's Office, September 12, 1855.*

In reply to your letter of the 10th instant, on the subject of the indictments pending against persons charged with recruiting for the military service of Great Britain, I have the honour to make the following observations:—

Mr. McKeon has been advised of the desirableness of conferring with you personally, either by himself or his assistant, in regard to new evidence to which he may have access, and which can be useful to you.

I suggest the expediency of trying only a part of the cases now, especially if you fail to convict in some leading case.

But the most important consideration is this:—

This Government has, of course, addressed to that of Great Britain such demands of public redress and satisfaction in the premises as the national honour requires. But the Government of Great Britain, with extraordinary inattention to the grave aspect of its acts—namely, the flagrant violation of our sovereign rights involved in them—has supposed it a sufficient justification of what it has done, to reply that it gave instructions to its agents so to proceed as not to infringe our Municipal laws; and it quotes the remarks of Judge Kane in support of the idea that it has succeeded in this purpose. It may be so: Judge Kane is an upright and intelligent judge, and will pronounce the law as it is, without fear or favour.

But if the British Government has, by ingenious contrivances, succeeded in sheltering its agents from conviction as malefactors, it has in so doing doubled the magnitude of the national wrong inflicted on the United States.

This Government has done its duty of internal administration, in prosecuting the individuals engaged in such acts. If they are acquitted, by reason of a deliberate undertaking on the part of the British Government not only to violate as a nation our sovereign rights as a nation, but also to evade our Municipal Laws, and that undertaking shall be consummated by its agents in the United States; when all this shall have been judicially ascertained, the President will then have before him the elements of decision as to what international action it becomes the United States to adopt in so important a matter.

I am, &c.

James C. Van Dyke, Esq.,
United States' Attorney, Philadelphia.

(Signed) C. CUSHING.

Sir,

Attorney-General's Office, September 17, 1855.

I desire to make a further suggestion in regard to the trial of parties charged with recruiting soldiers in the United States for the service of the British Government.

It is known that instructions on this subject were given by that Government to its officers in the United States. We are told by Lord Clarendon that those officers had "stringent instructions" so to proceed as not to violate the Municipal Law, that is, to violate its spirit, but not its letter. If so, the instructions themselves violated the sovereign rights of the United States.

But, in the meantime, every Consul of Great Britain in the United States is, by the avowal of his Government, subject to the just suspicion of breach of law, while, apparently, he must either have disobeyed his own Government, or, in obeying it, have abused his Consular functions by the violation of his international duty to the United States.

In these circumstances, it is deemed highly necessary that the British Consul in Philadelphia, or any other officer of the British Government, shall not be suffered to interfere in the trials, as he did on a previous occasion; that no letter of his be read, except in the due form of evidence; and that, if he has anything to say, he shall be put on the stand by the defence, in order that he may be fully cross-examined by the prosecution.

It is clear that he has no right, by any rule of public law or of international comity, to be heard in the case by the Court otherwise than as a witness, whether enforced or volunteer.

James C. Van Dyke, Esq.,
Attorney United States, Philadelphia.

I have, &c.
(Signed) C. CUSHING.

Sir

*Office of Attorney United States, Eastern District of Pennsylvania,
140, Walnut Street, Philadelphia, September 27, 1855.*

I have the honour to report that, in the case of the United States *v.* Henry Hertz and Emanuel C. Perkins, charged with hiring and retaining persons to go beyond the limits or jurisdiction of the United States, with the intent to enlist in the service of Her Most Gracious Majesty the Queen of Great Britain and Ireland, Honourable J. K. Kane this morning charged the jury in a learned and able opinion. The jury retired at 11 o'clock, and at 15 minutes after 11 returned with a verdict of not guilty as to E. C. Perkins, and of guilty as to Henry Hertz, on all the bills of indictment which I had submitted to their consideration.

I will transmit to you, in a few days, a full report of the whole case, as reported by James B. Sheridan, phonographic reporter.

* * * * *

I am, &c.

(Signed) JAMES C. VAN DYKE,
Attorney for United States.

Hon. C. Cushing,
Attorney-General of United States.

Sir,

Attorney-General's Office, September 28, 1855.

I have received your letter of the 27th.

I congratulate you on the complete success of the prosecution.

* * * * *

James C. Van Dyke, Esq.,
United States' Attorney, Philadelphia.

I am, &c.
(Signed) C. CUSHING.

Sir,

Attorney-General's Office, December 8, 1855.

I am directed by the President to request you to report, for his information, a list of all the criminal complaints entered in your district against persons accused of recruiting for the service of Great Britain, giving the names of the parties, and the time of each alleged act.

James C. Van Dyke, Esq.,
United States' Attorney, Philadelphia.

I am, &c.
(Signed) C. CUSHING.

Sir,

*Office of Attorney United States, Eastern District of Pennsylvania,
Philadelphia, December 19, 1855.*

Your communication of the 8th December instant was duly received. In reply, I have the honour to report that the annexed statement will show the different causes which have originated in this district against persons charged with enlisting for the military service of Great Britain.

You will observe by that list that there are, apparently, five different warrants issued. The whole five may be properly classified into two sets of causes—first, those numbered 1, 2, 3, which resulted in the indictments against Hertz and Perkins; second, those numbered 4 and 5, which resulted in the indictments against Baron Van Schwatzenhorn and Emanuel Schuminski.

The recruiting business in Philadelphia was commenced about the 1st of March last, at an office opened for that purpose in Third-street, near Walnut. When I first received information as to the object in opening this office, I directed inquiry to be made for the names of the parties who had charge of it. It was, however, soon found to be impossible to get the names of any of the parties; and, learning that persons of the name of Gilroy, Gallagher, and others, had enlisted at that office, a warrant was issued for their arrest, with a clause authorizing the Marshal to arrest such other persons as might be pointed out as being engaged in the same business. By virtue of this warrant, the company about leaving under the command of William Budd was arrested, together with all the persons in the office. Among them were the defendants mentioned in case No. 2 of annexed schedule, except E. C. Perkins, who was, at the same time, arrested at his boarding-house. These parties being arrested, and having determined upon the propriety of making witnesses for the Government of the defendants named in case No. 1, of course that case was abandoned.

Of the defendants mentioned in case No. 2, Hertz and Perkins were alone held for trial; the evidence showing clearly that Hertz was the principal offender, and that all the other offenders, except Budd and Perkins, were mere visitors at the office of Hertz. It being at that time impossible to show the real design of Hertz in sending men to Halifax, except by the testimony of William Budd, I concluded to accept his offer to give testimony for the Government.

The cause No. 3 arose out of a charge made against William Bucknall on the oath of William Budd. The evidence against him was, that he had brought to Philadelphia a number of handbills, and left them at the office of Mr. Hertz. The bills thus brought on were the printed bills with the arms of Her Britannic Majesty, as published at page 15 of the report of the trial of Henry Hertz.

On *habeas corpus* before Honourable John K. Kane, William T. Bucknall was discharged; the Judge holding the Government to the proof of some overt act of enlistment within the jurisdiction of the United States, or of sending some person beyond the jurisdiction of the United States, knowing that the person so sent had the intention, when beyond such jurisdiction, to enlist, &c. There was no proof of any act of this kind on the part of Mr. Bucknall, and he was discharged.

It was the opinion of the Court on this primary hearing to which the British press refers, when they say that Judge Kane had decided that the action of the British agents in the premises was not a violation of the Municipal Law of the United States. This, however, was not, at that or any subsequent time, the opinion of the Court. The extent of the adjudication was, that the evidence at that hearing in relation to the action of Mr. Bucknall, did not

establish, as against him, a *prima facie* case within the letter of the Act of Congress.

Of the cause thus far referred to, indictments were sent to and found by the grand jury against Henry Hertz and E. C. Perkins. There were a number of joint bills against these defendants. Some of them have been tried, and convictions have been had of Henry Hertz, who is yet awaiting sentence.

E. C. Perkins coming within the ruling of Judge Kane, on the hearing of the *habeas corpus ex relatione* William T. Bucknall, he was acquitted.

The full report of this trial you have already received in the printed pamphlet, copies of which have been transmitted to your Department.

The causes marked 4 and 5, on the annexed schedule, were prosecutions against some persons at the time unknown, who had opened an office in the upper part of the city amongst the German population. The warrant No. 4 was issued, and under it the defendants mentioned in case No. 5 were brought in. The defendants were held for their appearance at the next term of the District Court of the United States. Bills of indictment were found by the grand jury, and the defendants have, since that time, neglected to appear in Court. These defendants acted under the directions of Mr. Hertz. They were procured by him to open their office for the recruiting business, after the office in Third-street had been closed by the arrest of Henry Hertz *et al.*

There have been no other prosecutions for violation of the Neutrality Laws growing out of enlistments for the British service.

I am, &c.

(Signed) J. C. VAN DYKE,

Attorney of United States, Eastern District of Pennsylvania.

Hon: C. Cushing,

Attorney-General of United States.

Inclosure.

Copies of Entries from Commissioner's Docket.

No. 1.—United States v. Gilroy, Mc Gowen, Gallagher, *et al.*, charged on oath of E. W. Powers with violating Neutrality Laws.

March 28, 1855, 1 o'clock A.M., process exit.

No. 2.—United States v. E. C. Perkins and others by description, charged on oath of E. W. Powers with violating Neutrality Laws.

March 28, 1 o'clock A.M., process exit.

Eo die process returned, and E. C. Perkins, Henry Hertz, Augustus Stahl, Barret Leob, John Jacob Boschart, and William Budd, brought up.

The following named witnesses were examined, viz., William Jones, Andrew Mc Manus, Michael Gilroy, William A. Leese, Dennis Mc Laughlin, and E. W. Powers.

Mr. Van Dyke moves that the defendants, except Augustus Stahl, be held for further hearing.

Each is held in the sum of 2,000 dollars, as follows :

E. C. Perkins, with William Magill as surety.

Henry Hertz, with Jacob Aub as surety.

Barnet Leob in 500 dollars, with Philip Lang as surety.

J. J. Boschart in 500 dollars, with N. Fend as surety.

William Budd is committed.

Mr. Van Dyke moves for commitment of the following witnesses : Augustus Queese, John Riddlebury, William Eckert, Charles Weaver, James Mc Connell, Philip Sibet, H. Kerstein, Robert Kern, Peter Muhr, William Finley, William Jones, and James Johnson. Commitments exit.

March 31.—Defendants are present, with counsel :

Mr. Vaux for William Budd.

Mr. Remak for Hertz, Leob, and Boschart.

Mr. Guillon for Mr. Perkins.

The following witnesses are examined, viz., Michael Gilroy, P. W. Conroy, H. B. Mann, Edward G. Webb.

The District Attorney moves a continuance till Friday next at 12 o'clock.

Defendants Leob, Boschart, and Budd, committed for want of bail, 500 dollars.

April 2.—Defendants present. William Mc Gill sworn; John Jenkins sworn; F. M. Wynkoop sworn.

On motion of District Attorney, William Budd is discharged on his own recognisance.

William Budd is called and sworn as a witness for the Government.

April 16.—Defendants present, with counsel.

After argument, Leob and Boschart are discharged. Perkins and Hertz held to answer at next term of Court; bail fixed at 1,000 dollars each. Bail entered.

Before Commissioner Heazlett.

No. 3.—United States v. William J. Bucknall, charged on oath of William Budd with violation of Neutrality Laws.

March 30.—Affidavit filed, and process exit.

March 31.—Defendant held D. Sherwood surety in 2,000 dollars for hearing on Monday next at 10 o'clock.

April 2.—Defendant present, with R. P. Kane, Esq., as counsel, and held till Friday next for further hearing.

April 18.—Defendant present; witness for Government heard. Mr. Van Dyke moves that defendant be held to answer; R. P. Kane, Esq., contra. Defendant held in the sum of 1,000 dollars to answer at the next term of the Court.

No. 4.—United States v. a person by description, charged with enlisting and hiring others to enlist.

April 2.—Affidavit filed; process exit.

No. 5.—United States v. Baron Van Schwatzenhorn and Emanuel Schuminski, charged with enlisting men for the service of Great Britain.

June 1.—Affidavit filed of J. A. Weidenbourned, and process issued.

June 2.—Return C. C. Defendants present. The following witnesses examined, viz., Theodore Theiner, William Krample, John Heaich, Simon Rosenbaum, Herman Tappert, Edward Golzken, William Winter.

Defendants held in 500 dollars to appear at the next Court, United States. On motion of the District Attorney, the following witnesses are committed in default of bail: T. Theoner, H. Tappat, E. Gotzgen, Heaich, Winter, and Rosenbaum.

Sir,

Attorney-General's Office, December 8, 1855.

I am directed by the President to request you to report, for his information, a list of all the criminal complaints entered in your district against persons accused of recruiting for the service of Great Britain, giving the names of the parties, and the time of each alleged act.

I am, &c.

Hugh Jewett, Esq.,

(Signed)

C. CUSHING.

United States' Attorney for Southern District of Ohio.

Sir,

*United States' Attorney's Office,
Zanesville, December 18, 1855.*

I am in receipt of your favour of the 8th instant.

The names of the parties charged by indictment, in the Circuit Court for this district, for "recruiting for the service of Great Britain," are: first, Charles Rowcroft; second, William Hamilton; third, Robert B. Mc Kay; fourth, John Turnbull; fifth, Daniel de Korponay. Complaint was made against one Frederick Pashuer, but no indictment found.

About the 1st of July last, the Marshal and his assistants were advised that the above-named parties were violating the Neutrality Laws, by hiring persons to go beyond the jurisdiction of the United States with intent to enlist in the

service of Great Britain, and that about the 7th of July such hired persons would be started for Canada.

On the morning of the day that the hired parties were to be dispatched, and after they were seated in the cars, they, with the above-named parties, were arrested.

On the 14th of July, a hearing was had before one of the Commissioners of the United States, when the above-named parties, with the exception of De Korponay and the man named Pashner, were recognised to appear and answer the charge at the ensuing October term of the Circuit Court; at which term indictments were found, as before mentioned, and the cases continued for trial at the next (April) term of said Court.

Very respectfully, &c.

(Signed)

H. J. JEWETT,

District Attorney.

Hon. Caleb Cushing,
Attorney-General.

Sir,

Attorney-General's Office, January 10, 1856.

I have the honour to acknowledge the reception of your report of the 18th ultimo, respecting violations of the laws of the United States by agents of Great Britain within your district, and to say that what you have done in the premises is approved by the President.

I am, &c.

Hugh J. Jewett, Esq.,

(Signed)

C. CUSHING.

Attorney United States for Southern District of Ohio.

Sir,

Attorney-General's Office, December 8, 1855.

I am directed by the President to request you to communicate, for his information, a brief report of all the legal proceedings had in your district to repress or punish military recruiting for the service of Great Britain, including, especially, a list of persons indicted, with a statement in each case of the time of the alleged acts.

I have, &c.

Hon. Benjamin F. Hallett,

(Signed)

C. CUSHING.

United States' Attorney, Boston.

Sir,

Office of United States' Attorney,

Boston, December 24, 1855.

I have the honour to comply with your request, made by direction of the President, to communicate, for his information, a report of the legal proceedings had in this district, to redress or punish military recruiting for the service of Great Britain, including a list of the persons indicted, &c.

In May last, I received information that persons, apparently foreigners, were being sent by steamers and packet-vessels from Boston to Halifax, whose passages were paid at this place. I had communication with the Collector, General Peaslee, who concurred with me in refusing passenger manifests when the purpose of such shipments was suspicious. Mr. S. S. Lewis, the agent for the Cunard line, acted very promptly upon my suggestions, and refused applications made to him from New York to take passengers of this description, and receive their passage money on landing them at Halifax. I also received, anonymously, a printed copy of the hand-bill issued from the office of the Provincial Secretary at Halifax, March 15, 1855, inviting shipmasters to bring poor men who were willing to serve Her Majesty, and promising the cost of a passage for each man shipped from Philadelphia, New York, and Boston—signed Lewis M. Wilkins. The same bill or proclamation is printed in the trial of Henry Hertz, page 15. Satisfied that Boston was being made a depôt for the shipment of men designed for enlistment at Halifax, in evasion and violation of the Neutrality Acts, I caused the following arrests to be made:—

June 6, 1855.—Charles Green, and five other labouring men. Philip Kauffman, an agent in bringing men from New York, to be forwarded to Halifax.

June 8.—John M. Schwarrer, who kept a German hôtel in Boston, and boarded the intended recruits.

June 9.—Louis Celegi, another agent from New York, Dr. Keilbach and Gastinson, Germans, were arrested.

June 19.—In consequence of disclosures by some of the above parties, who voluntarily became witnesses, a warrant was issued against C. H. Stanley, of the Consular Office at New York, in order to retain the witnesses against him, who were sent to New York to Mr. McKeon, under the Statute for that purpose.

June 23 and 25.—Farley, *alias* Grant, and Caleb Stewart were arrested.

June 28.—Upon information from the collector at Edgartown (Mr. Norton), and by the energetic action of Captain Clark, of the revenue-cutter "James Campbell," I caused the arrest by the Marshal, on board the British brig "Buffalo," of four persons, appearing to be officers, viz., Louis Kazinski, a Pole, calling himself *Count*; Hugo Lippi, a German; Richard Rudelins, an Italian; and H. Langlois, a French surgeon, together with twenty-one men under their control, bound to Halifax. By my request, Captain Clark brought those persons to Boston in his cutter, under arrest of the Marshal, from Tarpaulin Cove, where they were found.

All the above persons, forty in number (except Mr. Stanley), were brought before Mr. Commissioner Woodbury, and their cases respectively investigated. Philip Kauffman, Louis Celegi, Schwarrer, Kazinski, Hugo Lippi, Rudelins, and Langlois, were held before the grand jury, and the other persons retained as witnesses, or discharged. The grand jury found bills against all except Kauffman and Schwarrer, who became witnesses.

These examinations distinctly proved a concerted arrangement between the Colonial officers at Halifax and the British Vice-Consul at New York, to procure men in the United States, and ship them from Boston to go to Halifax, there to enlist in the Foreign Legion. Most of the men were deceived by promises of work on railroads or docks at Halifax, or other false pretences of employment. The agents who enticed the men were instructed in most cases, so as to evade the laws.

Kauffman was employed at New York to bring men on to Boston by Count Kazinski, who, as is now proved, was under the orders and pay of Mr. Stanley of New York, and was promised a colonel's commission in the Foreign Legion. Kauffman and Celegi brought to Boston at different times fifty men, who were shipped to Halifax. The packets of Clark, Jones, and Co., and of Sprague, Soulé, and Co., of Boston, transported large numbers of men, whose passages were paid through Mr. Howe, formerly Colonial Secretary. Mr. A. Winsor, who received passage money of Hertz at Philadelphia, March 25, was a member of the last-named firm, and testified that he also received passage money in Boston, and forwarded men who were sent to Boston from New York by Max F. O. Strobel. Sixty men were shipped in Sprague, Soulé, and Co.'s vessels, who were forwarded by Strobel; and, at another time, thirty men were dispatched in the barque "Halifax," belonging to Clark, Jones, and Co. These ship-owners and their agents here, though grossly violating the spirit of the law, could not be brought under its provisions of hiring and retaining. They desisted, however, promptly and honourably, after the disclosures made before the Commissioner and Grand Jury in the investigations. It was also proved that Mr. Howe, the Colonial agent, had been three several times in Boston, contracting for the passages of recruits, boarding and selecting men, and paying money to agents engaged in procuring them; but he could not be found after these disclosures, to be arrested. Mr. Edward Whitney, of the firm of Sprague, Soulé and Co., testified that Howe advanced to him 192 dollars for passages, and that he, Howe, told Whitney that he had taken legal advice, and that it was lawful to ship the men to Halifax. A person named Jacoby procured at New York and brought to Boston a number of squads of men, under the pretence that they were to enlist in the United States' service. I never found but four men—three Frenchmen and one German—who admitted that they intended to enlist as soldiers, and they were hired in New York. All the others declared they had been deceived, though many of them had previously stated their intention to enlist.

Two men, George Hashren and John Hock, had been sent to Halifax to enlist, and were there rejected for physical defects, and sent back to Boston. Their

testimony proved that the recruits sent from Boston were expected, and were received by the Lieutenant-Governor of Nova Scotia and the officers of the Foreign Legion, and were examined and enlisted.

In the District Court of the United States, before Judge Sprague and a jury, from July 16th to the 21st, 1855, I tried the indictments found against Louis Kazinski and the three other officers, viz.: Hugo Lippi, Rudelius, and Langlois, arrested on board the British brig "Buffalo." The defendants were acquitted under the ruling of the Judge, that there was not sufficient evidence of a hiring and a retaining of the men in this district, with their consent and concurrence in this district, to go to Halifax, there to enlist as soldiers. It was fully proved that Count Kazinski had the control of the men on board the brig "Buffalo;" that he forcibly retained and refused to land some of them, who begged for their discharge; that he declared he had telegraphed to Halifax the number of men he had in the brig "Buffalo," and must report them all at Halifax; and if the British officers there would release them after they got to Halifax, they would be sent back. But the consent of the men to be hired or to enlist while in the district of Massachusetts could not be proved.

The facts disclosed gross deception practised upon the men by the British officers and agents concerned, and an elaborate combination to evade the Neutrality Laws, and yet secure the men at Halifax.

Another indictment against Louis Celegi was also tried with the same result. But the effect of these proceedings and trials, and of the vigilance instituted to detect further attempts to evade the laws, was to break them up entirely in this city.

Subsequently, on the 9th of August, 1855, I caused the arrest of Joseph Wagner, and, upon his examination, sufficient evidence was obtained to implicate him in an actual hiring of men at New York. I accordingly caused Wagner and the witnesses to be removed to New York by the Marshal, where he was proceeded against by Mr. McKeon, and he was tried and found guilty.

In the meantime I communicated to the United States' Attorneys, Mr. McKeon, of New York, and Mr. Van Dyke of Philadelphia, all the information drawn out by the examinations here of the violations of the laws in those cities. On the 22nd of June, 1855, I communicated to the Honourable Secretary of State, Mr. Marcy, the substance of the proceedings here.

* * * * *

The counsel who defended Louis Kazinski and his associates in the trials here (Messrs. Andrew and Burt) were retained and paid a 500 dollar fee by Mr. Stanley, of the British Consulate at New York. Kazinski himself, who has recently been in Boston, has verified this statement to me; and also, that, at the time he took charge of the brig "Buffalo," he held the written instructions of Mr. Stanley, and had the control of the vessel.

* * * * *

I instituted the above proceedings without any direct instructions to that effect, but as within my duties as a prosecuting officer, and in the confidence that the President, as all his acts before and since have demonstrated, was earnestly desirous to maintain the good faith of the United States by a strict and impartial enforcement, in all cases, of the Neutrality Laws; and I trust that my endeavours to enforce an observance of those laws in this district have met his approbation and that of the Attorney-General.

Very respectfully, &c.

(Signed)

B. F. HALLETT,

United States' Attorney.

Hon. C. Cushing,
Attorney-General.

Sir,

Attorney-General's Office, January 17, 1856.

I am directed by the President, in acknowledging the reception of your communication of the 24th ultimo, to signify his entire satisfaction with all the steps taken by you in regard to enlistments for the military service of Great Britain within your district.

I am, &c.

(Signed)

C. CUSHING.

Benjamin F. Hallett, Esq.,

Attorney United States, District of Massachusetts.

Mr. Woodbury to Mr. Marcy.

Sir,

Boston, June 13, 1855.

A COMPLAINT was brought before me, some days since, against a German named Kaufman, for violation of the Neutrality Laws of the United States, by "hiring or retaining certain persons to go beyond the jurisdiction of the United States, with intent to be enlisted in the service of a foreign Prince, Queen Victoria." The disclosures in the investigation of this cause produced other complaints and arrests. An investigation of a week has led to the discovery of many important facts, which I conceive it my duty to communicate in a distinct shape to your Department, that the Government may adopt any action which it shall see fit.

The Provincial Government of Nova Scotia has commenced, some two months since, the organisation of a Foreign Legion, destined to serve in the British army in the war now pending in Russia. A proclamation, signed by the Provincial Secretary, L. M. Wilkins, announces that a bounty of 30 dollars, and a pay of 8 dollars per month, will be given to every recruit. It further announces that shipmasters bringing to Halifax "poor men desirous of enlisting shall be paid their passages."

The Hon. Joseph Howe, of Nova Scotia, late Secretary, and, I believe, at present one of the Railroad Commissioners, came to the United States a month or six weeks since, and organised the recruiting service for this Legion.

From various disclosures, as well as testimony, I am induced to believe the organisation to be as follows:—

Two regiments have been organised—one with Polish officers, one with German officers. About 300 recruits were in dépôt at Halifax a fortnight ago; 50 have sailed since from this port to join. The instructions are to enlist no Irish. Germans are sought for. Major Weisse commands at the dépôt. Baron Fonescan, Dr. Beale, and Lieutenant Zeimichi, are at Halifax also. The other officers are now in the States, engaged in the business of recruiting.

Information has been given me as to the details of the recruiting service, which I am inclined to credit.

New York has been the place where the enlistment has gone on most actively: Boston the shipping port for Halifax. Mr. Stanley (a clerk, I believe, in the English Consul's office) and a Mr. Turnbull are represented as having the organisation of the financial department there.

Colonel Smolenski, a Pole, formerly Captain in the Polish service, Major in the Hungarian war, and in service in Belgium, but lately an engraver, 251, Broadway, room 11, is the chief military officer stationed there: he speaks good English and French. Lieutenant Yesson, a German, and a Pole named Trietarky (I write from the sound), are the other military officers. A Captain Carstensen, a Dane, was here, and has fled: is probably there. Lieutenant Thoman was here, and has fled: is probably there. The inferior agents are boarding-house runners, intelligence-office keepers, &c. Jacoby resides in Christie-street, office in Lewis-street: Rosenbaum, 353, Greenwich—said to be chief enlisting agent.

The men gathered by these runners are sent on in squads of five to ten to Boston, their passages paid, and consigned to one of two or three German boarding-houses, where they are boarded until they can be shipped in a packet to Halifax.

Dr. Kieckbach, a German, has been, and Captain Sierewski, a Pole, Lieutenant Galitsky, alias Celagi, a Pole, are in charge here of the forwarding of men to Halifax. They pay the boarding-masters, and ship the men in the packets. There are two lines of packets from here to Halifax, and the agents of these lines have advanced the money to pay the charges in Boston, and get their pay and passage-money on the arrival of the squads in Halifax. About fifty Germans have been rejected at Halifax, and most of them returned to New York.

The boarding-masters are allowed 4 dollars a head for the men they send down; 2 for the runner, 2 for themselves. Complaint is made by many of the Germans going down that they are given but 14 dollars, instead of the 30 dollars

bounty promised, and paid 4*d.* a day, instead of the 8 dollars per month, promised in the proclamation.

Recruiting agencies are said to be established at Portland, Philadelphia, and Buffalo, and officers have gone further west to establish others.

Major Platt, represented as being of Mount Air, Canada, and his son, Captain Platt, are probably in charge of this division.

A large number of other officers are spread over the States in this business, some of whose names I am informed of, others not; but their residences I cannot give. There are now in arrest, as witnesses here, about twelve men who have been brought thus far on their way to Halifax. They have seen none but the runners and the forwarding agent here. A gentleman who has been connected with all their business has given much information, and other has been obtained by close investigation.

The agent in Philadelphia is Mr. John Smith; the one in Buffalo, Dr. Aschenfeldt.

I presume these details are sufficient to enable you to form an opinion of the extent and character of the violation of our neutrality now being attempted by the authority of the English Government. Since these investigations began here, two squads, of 6 or 8 each, sailed to Halifax, and then, learning of the departure of a packet, I communicated with the Collector of the Port, who directed a watch to be kept on her; a squad of 21 men were seen to march to her, and were carried off. The agents who accompanied them to the packet are known.

But few enlistments have taken place in Boston, as there are but a few thousand Germans who live here. Now that these arrests have been made here, the shipping port will probably be changed to Philadelphia or New York, and soon, I presume, they will send their men to Canada as the safest route.

* * * * *

The District Attorney has been absent from town for several days past, and in the conduct of these examinations has been represented by one of his assistants, who has performed with zeal and intelligence his proper duties. Except in the first case which came up, when we were not aware such important disclosures would be arrived at, I have not had the superior advantages of consultation with the United States' Attorney himself. Were he here, I should not undertake to give this information to the State Department, as it properly pertains to his official duty. Under the circumstances, however, I trust that neither the State Department nor the United States' Attorney will conceive that I am departing from propriety, or the respect due to them, in the course I have taken.

* * * * *

I have, &c.
(Signed) CHAS. LEVI WOODBURY,
Commissioner, Circuit Court United States, District of Massachusetts
Hon. Wm. L. Marcy,
Secretary of State.

Mr. Mc Keon to Mr. Marcy.

Sir. *Southern District of New York,
United States' District Attorney's Office, June 18, 1855.*

I have the honour to inclose an affidavit made by Morris Kieckbach, before George W. Morton, Esq., one of the Commissioners of the United States.

It relates to the means made use of by the Colonial Government of Nova Scotia to retain men within the jurisdiction of the United States, to proceed to Halifax, there to be entered or enlisted as soldiers of the Queen of Great Britain.

I have, &c.
(Signed) JOHN Mc KEON,
United States' District Attorney.

Hon. Wm. L. Marcy,
Secretary of State.

Southern District of New York, ss.

I, Morris Kieckbach, of 206½ Canal-street, physician, do swear that, about five months since, deponent arrived at this city from Brazils, and, at the instance of several families, went to Montreal, there to settle as physician and surgeon. At Montreal deponent heard that the British Government was about to form a Foreign Legion to go into the service on the continent, and that the authorized Agent of the Government was then at Boston. I then went to Boston, and found Colonel Smolenski and Captain Carstensen. Smolenski was to raise a Polish regiment, and Captain Carstensen was to have a command in the battalion of Germans raised by Major Weisse. Smolenski introduced me to the Honourable Joseph Howe, in Boston. He boarded at the Tremont House. This was about the 26th to the 28th of April last, or perhaps a day or two later. Mr. Howe declared himself to be the Agent of the Colonial Government of Nova Scotia, and acknowledged me as staff or regimental surgeon to the Polish officers' regiment under Smolenski, and at the same time this deponent was engaged as the representative and agent, in lieu of Smolenski, at Boston. This deponent's duty, as such agent, was to receive the persons who had been enlisted and sent to Boston, to bring them into boarding-houses, ship them to Halifax, pay their debts, receive money from Clark, Jones, and Co., for account of Howe, and to pay \$4 a head for each man to the agent who had enlisted them. I acted as such agent to the 18th May. I drew \$327, Captain Carstensen \$949, and Colonel Smolenski \$465. Some of the men—say about 50 of 200 that I had sent—had been rejected at Halifax, who reproached me for having inveigled them. I then went myself to Halifax. I there received permission from Governor le Marchant and Messrs. Howe and McDonald to visit Melville Island, which is used as a dépôt for these men. I found there about 200 soldiers, who were very discontented. There was another house in Boston which paid agents' fees—viz., Sprague, Soulé, and Co.

I represented to Governor le Marchant that the men were discontented, and he promised to see them satisfied. He referred me to Mr. Crampton, the British Minister at Washington, who was to refund me what I had advanced out of my own funds, and to arrange with him about the further organization. He said that he (the Governor) had no further power; that the Home Office had transferred it to Mr. Crampton. I was told I would find Mr. Crampton at Washington, or at the British Consulate of Mr. Grattan, in Boston, between the 5th and 15th June. Not finding Mr. Crampton there, I spoke to Mr. Grattan, who also referred me to Mr. Crampton, and said that he would not be in Boston. I then went to New York, and spoke to Vice-Consul Stanley, British Vice-Consul at New York. Mr. Stanley told me he heard and read that there was a warrant out against him; that there were many spies about, and that he had no order to pay me; and when I spoke to him about Mr. Crampton, he said that all my business with Crampton must come through him.

(Signed) DR. M. KIECHBACH.

Sworn to before me, June 1855.

(Signed) GEORGE W. MORTON,
United States' Commissioner.

No. 3.

Paragraph of Mr. Marcy's letter to Mr. Buchanan dated July 15, 1855, omitted in the copy given to Lord Clarendon by Mr. Buchanan.

[See previous Papers relating to Recruiting in the United States, page 121.]

THESE measures of redress cannot, as the President conceives, be withheld on any other ground than the assertion of a right, on the part of Great Britain, to employ officers and agents to recruit her military forces within our limits, in defiance of our laws and our sovereign rights. It is not anticipated that any such pretext will be alleged: it certainly cannot be permitted to be a subject of discussion.

PAPEES respecting Recruiting in the United States, not already published in the Papers laid before Parliament, May 2, 1856. (Reprinted from a Collection of Papers entitled "Messages of the President," ordered to be printed by the Senate of the United States.)

*Presented to the House of Lords by Command
of Her Majesty. 1856.*

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